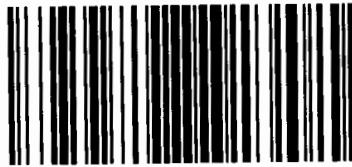


LAW IN THE STRUGGLE AGAINST APARTHEID, 1980 - 1994



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**BAKWENA BA MAGOPA:
THE LAST
FORCED REMOVAL**

Monograph 3

MPOPHOMENI AND
THE WAR IN NATAL

CARVING LOOPHOLES
IN THE PASS LAWS

SEEKING RECOGNITION
- MAWU & BTR SARMCOL

STATE TERRORISM:
THE RESPONSE OF LAW AND
MEDICINE TO POLICE TORTURE

WHITE RESISTANCE
TO THE MILITARY

BAKWENA BA MAGOPA:
THE LAST FORCED REMOVAL

THE ALEXANDRA
TREASON TRIAL

CENSORSHIP AND THE CLOSURE
OF THE NEW NATION

DISESTABLISHING OUKASIE

MOUTSE AND KWANDEBELE ETHNICITY AND GENDER
IN THE CHALLENGE TO GRAND APARTHEID

BAKWENA BA MAGOPA

THE LAST FORCED REMOVAL

RICHARD L. ABEL

CENTRE FOR APPLIED LEGAL STUDIES
UNIVERSITY OF THE WITWATERSRAND,
JOHANNESBURG

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FOREWORD

The story of the Bakwena Ba Magopa, portrayed here in fine detail, is a classic saga of resistance by a rural community to the policy of black spot removals. From their forcible removal, their near disintegration as a community, and their relocation to various dumping grounds, the Magopa's experience mirrors that of many similar communities driven from "white" South Africa. Yet the Magopa's struggle was also different from others. They were the first community successfully to challenge the legal basis of their forced removal. It was partly in consequence of this legal victory, and partly in consequence of the adverse publicity which followed their actual forcible removal, that the "forced removal" law was repealed and no further removals were ever undertaken again.

Ironically, the Magopa was the first community successfully to win back their ancestral lands even though they were compelled to abandon their legal victory and rely on extra-legal stratagems. While it is true that the struggle by the Magopa to regain their land took a predominantly legal form, this should not obscure the fact that it was always the struggle of the Magopa, by the Magopa. The story told by Rick Abel shows the interplay between a technical and legal contest and the organisational, political, and propaganda issues which were really at stake. The Magopa story thus reveals that under conditions of adversity, those with little or no purchase on the state may choose a legal battlefield selectively and strategically, and with an eye to non-legal objectives.

The story of the Magopa recalls what many would forget, the cruelty and the despair wrought by the policy of black spot removals and the cynicism with which it was executed. Above all it reveals the resilience and determination of a rural community, a community of ordinary people whose only distinguishing feature was their lack of material resources, to prevent an injustice to themselves and their children.

Nicholas Haysom
October 1994

Whereas I consider it in the public interest that you, the members of the black tribes . . . must move . . . so it is that I, by virtue of the power vested in me . . . hereby order that you . . . must move . . . and I hereby order that you . . . may not at any time return. (M Viljoen, State President, 10 November 1983)

[N]obody was wronged because this action was undertaken with the greatest caution and acknowledgement of human dignity. All transactions were legal and the necessary provision was made that the removal and reimbursement were undertaken for the good of the community. (Report to the Nederduitse Gereformeerde Kerk by Professors J A Heyns and P B van der Watt and Dr P Rousouw, May 1984)

All we have is the right that the land belongs to us.

We've got our "gun", which is Christ. He is more powerful than an ordinary gun. (An elderly man and woman, preparing to return to Mogopa in August 1987)

I. SOWING THE SEEDS OF DISUNITY

Forced removals were the iron fist of apartheid. Like security force shootings of civilians, deaths in police custody, and the execution of "patriots," such acts of state terror resounded throughout the world, blackening South Africa's name. The Surplus People Project's estimate that the government forcibly removed 3.5 million was repeated by numerous critics, to the government's great embarrassment.¹ In an effort to improve its image, Co-operation and Development Minister Piet Koornhof declared in 1981 that there would be no more forced removals "as far as is humanly possible and as far as is practical."² Two years later he reiterated: "everything possible is also being done to ensure that [resettlement] is carried out with consideration and compassion."³ The tragic story of the Magopa exposed the hypocrisy of these claims.

The Bakwena Ba Magopa (hereafter the Magopa people, who live in the place called Mogopa) include farmworkers from the Orange Free State, peasants from Lesotho, and Tswana from the Mogale range (Magaliesburg).⁴ They bought two farms in the District of Potchefstroom, Western Transvaal, in the early part of this century. Zwartkop (4483 morgen or 9486 acres), which they purchased between 1913 and 1916, was transferred to the Minister for Native Affairs in trust for them in 1922.⁵ They raised the substantial purchase price of £7735 by selling their cattle. The transaction was conducted on behalf of the tribe by their chief (Johannes Otto More Momogale of Bethanie), headman (P More), and 13 councillors. In 1931, they bought the adjacent farm Hartebeeslaagte (4694 morgen or 9933 acres) for £7865/11/3 from Lydenburg Gold Farms Company Ltd.; this also was held in trust for them by the Minister of Native Affairs,⁶ who recognized them as a separate tribal entity.⁷ The community prospered; by the early 1980s it contained more than 420 families, who had built two schools (a primary school for more than 500 pupils and a high school for more than 300), a clinic, four churches, shops, and a reservoir. Their 332 substantial houses were built of stone. They produced more than enough to feed themselves, selling their surplus to the local (white) co-operatives.⁸ Alluvial diamonds were being mined by Mr. Swanepoel; the people believed (incorrectly) that half the diamonds were given to the paramount chief; the area has been mined for about 40 years.⁹

Foreshadowing the tragic future, a newspaper (unidentified) announced on 27 June 1969:

The 2,500-strong Bakwena Ba-Magopa tribe will soon be moved from the land which they have owned and developed since 1912. Their place will be taken by diamond prospectors who will be allocated claims during an old-fashioned "diamond rush."

When Mr L Cooper sold Zwartkop to the Magopa he retained the mineral rights, which were inherited by Mr S Cooper of Lichtenburg. The Klerksdorp Mining Commissioner's Office was ready to proclaim the area open as soon as the Department of Bantu Affairs decided when to move the Magopa to Swartruggens, about 35 miles

away. "A Government official said this morning that the tribe was being moved, not only to make room for the prospectors, but also in accordance with general Government policy."

Throughout its residence at Mogopa, the community retained its traditional social and political structures, recognizing the chief at Bethanie. Although the Department of Native Affairs had ultimate authority to appoint the headman, it consistently heeded the community's recommendation. The headman had no power to allocate land or resources. In 1978 the community deposed Simon More as headman and appointed Jacob More, a former Carletonville policeman, who was confirmed by the Department of Co-operation and Development. Within two years, however, the people became deeply dissatisfied with Jacob, as expressed in the following memorandum.¹⁰

MEMORANDUM CONCERNING MR. J.L. MORE OF BAKWENA BA MOGOPA,
SWARTKOP, VENTERSDORP DISTRICT

It is hereby noted that the above tribe is not satisfied of certain things which arise against our ex headman Mr. J.L. More during his headmanship from 1978. The tribe would like to know what happens to the monies collected for different reasons and fines which were imposed to different people and handed to Mr. J.L. More during his headmanship. The tribe would like to know where the money was banked, by whom, as such monies are not his, that is the tribes monies for the financial and administrative purpose, and the tribe would also want to know why they could be called and informed of such monies: reason for saying so, if the money is needed for improving things like for: e.g. water, schools, etc. They are being called and instructed to take such monies failing [which] they are fined of which they do not know where the money is going to. The[re] is things which the tribe may reveal about Mr. J.L. More if ever they are given the chance to do so. All things undernoted can be witnessed by individual people of the above tribe. Things to be investigated are as follows:

- *Mrs. Molaba fined a cattle; receipt not shown to the tribe
- *Six shebeen queens fined R20.00 each
- *Eight school committee members fined R10.00 each
- *Mrs. Mathule fined R50.00
- *Mr. Sejaname fined a cattle; receipt not shown to the tribe
- *Mr. Napoleon Tladinyane fined R20.00 for insulting his sister Mrs. Sinah Tladinyane; witness Mr. Ernest Kau
- *Pensioners contributed firstly R0.50 and second R1.00. Pensioners would like to know why would they be tax such monies and what did happen to that money
- *Mr. Swanepoel is paying certain amount to the tribe for using the Bakwena's water and paying certain amount for digging in the Bakwena's land, but the tribe knows nothing of such monies. Only he the headman

knows, and the Bakwena's would like to know what is happening to their rights.

*The land as it stand, is the tribal land. There is no one who can say he or she got better shares than the other one, individual inheritance and rights are the same, now the point is Mr. J.L. More is claiming that the tribal land is his. So the tribe would like to know where does he got that idea from.

From Bakwena Ba Mogopa Tribal Authority at Ventersdorp District and Bakwena Ba Mogopa Tribal Authority (Johannesburg Area and Surroundings)

A subsequent memo alleged that Jacob More continued to engage in this misconduct and, even more troubling, refused to consult with the tribe as he was obligated to do.

Tribes Complains Against Headman J.L. More

1.1. Our headman refused us with undermentioned dates for meetings, to discuss the difficulties and complains of the tribe about his mis-administration.

Dates: (1) 21-05-78
 (2) 18-03-79
 (3) 25-04-80
 (4) 21-09-80
 (5) 20-10-80
 (6) 15-02-81

Ultimately we asked the magistrate of Ventersdorp to assist us in this direction (in writing).

1.2. The headman collects money for tribal water from Mr. F. Swanepoel amounting to R75.00 per month, and never report back to the tribe. For digging on our farm the money is known by the headman, and the tribe is blank.

1.3. He collects huge sums of money, from so called offenders, and never reports to the tribe. E.g. (a) Mrs. Molaba's cow, (b) Mr. Sejaname's cow, (c) Mrs. Mathule's R50.00 (a widow), etc., etc.

1.4. He collects R20.00 from every tribal person who renews his/her employment documents (influx control documents), and all these are not reported to the tribe and do not reflect on the tribal banking.

1.5. They use transport money from the tribal budget without the knowledge of the tribe.

1.6. The appointed officials of the tribe collect monies from the tribal members in the cities, under his instructions and these monies end in the hands of the headman and the secretary/treasurer Mr. J. Rampa Andrews.

We want the investigations and refund of the tribal monies stated above.

Tension continued to mount between community and headman. Finally, the Magopa called a meeting on 20 September 1981, to which they invited all migrant workers. They removed Jacob More as customary law headman, disestablished his council, appointed Shadrack More in his place, and informed the Ventersdorp magistrate. The latter responded early the following month by calling another meeting to confirm the decision. On 7 October the community did so overwhelmingly, with only seven votes for Jacob. The magistrate asked the community to send him the names of those they wished to propose as councillors. Later that month he called a third meeting, however, and told the community they lacked the power to remove Jacob More as headman: "I am a white man and as magistrate of this district I am telling you that Jacob More will rule until he dies."¹¹ The community did not accept his decision. On 9 November Isaac More (temporary headman) and the vice-secretary (Dodibe) wrote the magistrate.

I am hereby instructed by the above mentioned tribe to requested the magistrate to help us in the following matters. Bakwena stamp: the above mentioned tribe Bakwena remove the headman Mr. J More: secretary and their council from their potfolio due to their failure towards the people.

In the meeting held on 20.9.81 Bakwena told the headman not to use Bakwenas properties. Presently the headman is still making use of the Bakwena stamp. Bakwena of the above mentioned tribe would be glad if the magistrate will help them to get their properties politely and respectively soon.

Headman J. More hires out tribal stamp @ R20.00 per letter and holds the money.

In response to continuing dissatisfaction, the Ventersdorp magistrate appointed the Klerksdorp magistrate to conduct a commission of inquiry into Jacob More's behavior. It sat 19-27 January 1982. The community gave evidence, although they had little faith in the proceedings. The commission never made a public report, however, and refused to disclose the evidence it received. It seems clear that the Ventersdorp magistrate was determined to retain Jacob More as headman because Jacob was willing to acquiesce in the government's decision to remove the community from Zwartkop.

On 15 February 1982 the community was summoned to a meeting and told it might be "resettled" at Pachsdraai. (Mogopa and nearby Mathopestad were characterized as "black spots" in grand apartheid's plan for the Western Transvaal; the latter was never moved. Although there was little or no pressure from local whites, the Nationalist MP may have thought the removal would help save his seat from the Conservative Party challenge. If so, he was wrong.) This was the first time a majority of the people had heard of these plans.¹² In the words of a later tribal memorandum: "At that meeting, members of the Tribe left no bones in explaining to the Officers that were present the irrelevancy of their request and they left."

On Saturday, 27 June 1982, Jacob More approached some labor migrants who happened to be in Mogopa for a wedding and raised the issue of the removal. They reminded him that adequate notice had to be given to allow other migrants to attend. A meeting called for 10 July brought several hundred people to Rapiitse's Old Hall, the traditional venue. Jacob, ten other community members, and three officials of the Department of Co-operation and Development gathered inside Jacob's house. Two community delegations invited Jacob and the others to address the people outside but were rebuffed. Inside the house, Jacob apparently selected the members of his "Planning Committee," although their names were not disclosed for more than a year. Louis Pretorius of the Department of Co-operation and Development told two reporters on 27 September 1983 that the Planning Committee had been named between June 10 and July 26 and consisted of: J L More, headman; T O More, vice-headman; L J More; B M Rampho; A Pooe; D More; J Kau; N More; N Tladinyane; D D Kgatitsoe; J A Andrew; J Mpshe; H J Jacobs; L A Pretorius; S J M Swanepoel; and P B J Cornelius.¹³ During the following months Jacob More held secret meetings with this "Planning Committee," often in the Catholic Church. Jacob Moloatsi and George Rampon were excluded when they sought to attend.¹⁴

On 19 September 1982, Matthew Kgatitsoe as tribal chairman and John More as secretary voiced new grievances (as well as repeating earlier ones).

We want the auditing of the tribes books to know exactly how these moneys are handled e.g. entries on the books, withdrawals, how many banking accounts we have, what are their numbers and any other contracts that are tribal assets.

Whenever the tribe needs monies they make resolution with Council and other two witness from the ordinary members are to endorse. The resolution is to be endorsed by six council members. N.B. lately the headman and the secretary draw money at their own discretion. . . .

Shop rentals which are paid to the commissioner of R48.00 annually per shop, four shops are situated in the village.

Since 1974 levies for building schools were made for members to pay R10.00 each. Primary school R5.00 each man. In addition boundary fence were to be erected each man are to pay R3.00 but was later raised to R5.00 for late payment. . . .

There has been an incidence where he refused to endorse documents for a certain pensioner by claiming that the farm is his. . . .

The land is the common ownership, no man has any right to do anything without a resolution of the tribe.

It has been noticed that at times the commissioner substracts one of the pensioners pay and do this with the headman secretly. Especially to the people who are not able to read.

It has happened that since he was deposed from his headmanship on the 20th September 1981, he has with his few followers started to hold private secret meetings and make decisions without the concern of the

tribe. These they take to the native commissioner as if they had consulted the whole tribe and agreed. . . .

For instance, they held private meetings with the Bophutatswana officials and talked over tribal rights without their concern to the extent that they had already arranged to move the tribe without their concern. They are breaking up the tribe by moving them against their will yet in addition to this they have not got the status.

We would like that this Bophutatswana's officials who often come and hold meetings in our place must be stopped for they are causing lot of trouble to the tribe.

Despairing of direct appeals to the magistrate, the tribe retained Bowman, Gilfillan and Blacklock, a firm of Johannesburg attorneys. On 7 September 1982 Mr Barrie spoke to the office of the Chief Commissioner of the Western Transvaal and was referred to Mr de Villiers, the Ventersdorp magistrate, who confirmed that he administered an account on behalf of the tribe but kept no books. On 15 September John Brand, also from that firm, wrote to Jacob More seeking "access to all the books, records and documentation pertaining to the administration of the tribe's funds, with a view to having such books, records and documentation audited by an independent auditor." He threatened court action if More refused, saying that failure to respond by 28 September would be deemed refusal. More replied a day before the deadline, referring Brand to de Villiers. Brand also wrote to the Chief Commissioner for the Western Transvaal on 27 September, requesting "all the books, records and documentation" concerning tribal funds so that they could be reviewed by an independent auditor. He also sought the record and report of the commission of inquiry. Brand repeated this on 8 October. The Chief Commissioner finally replied on 10 November but only to say that he had referred the matter to the Director-General Co-operation and Development in Pretoria. On 1 February 1983 Barrie wrote again to the Chief Commissioner, who replied three weeks later that, though government regulations required an annual audit, "The Department is therefore [sic] not prepared to accede to your request. A copy of the record of the inquiry into the affairs of the tribe can likewise not be made available to you." On 1 February Barrie also wrote to Jacob More demanding that he convene a meeting of all adult members of the tribe within 14 days to hear their complaints and make the financial accounts available. No meeting was held.

It was clear by early 1983 (and perhaps much sooner) that the real issue was not Jacob More's corruption but his right to act on behalf of the tribe with respect to the threatened removal. The tribe issued another memorandum about this time challenging that authority.¹⁵

The standing order in the Administration of the Tribe is constituted on the bases of the Chieftainship order by Kraals in the form of seniority, for peace and Good administration we have as a rule Tribally constituted

Kraals which has to respect each other in all the fundamental issues affecting the Tribe.

Thus, the had [head] Kraal which is the Royal Hierarchy has the prerogative in the decision of Tribal matters.

The Tribal constitutional procedure is that any major question or case that involves the whole Tribe, must be discussed at a general meeting, where every member of the tribe has got the right to come up with his opinion, and to the satisfaction of everybody. This has been the procedure ever since, but since the Headman Jacob More was installed as head of the Tribe, he has taken a very arrogant and dictatorship attitude. . . .

[The memo then describes his ouster.]

All these developments were reported to the Bantu Cooperation for their information only not opinion.

Shocking revaluation started from this action of the Tribe. When they wanted to get rid of the rotten seed in their Administration. . . .

we were told that members of the Tribe had been to Bophuthatswana to see the farms.

It was the beginning of J. More and his secret meetings. Many secret meetings has been held and we later heard that a replanning Committee has been nominated and the resettlement plan is going ahead.

Most members of the Tribe don't know, who these committee men were, and when have they put to work.

Our attempts by our lawyers to ask the Bantu Trust Cooperation Department to call a big general meeting at Swartkop to enable us to have a clear explanation to how the replanning Committee men were, who nominated them, what right do they have to perform and descreate, over the rights of the Tribe without their concern.

Moreover that some of them don't have hereditary rights to share such benefits.

Our opinion is that, not even the Magistrate, has the right to deny us of, our birth right property.

In true sense, people like Solomon Rathebe, Andrew Rampa, Boas Rampo, and many of them in that replanning Committee are mere subordinate in the Administration of the Tribe so what sense is it that they should decide on the future of the Tribe when the legitimate people are there,

Namely the Paramount Chief.

The principal in the handling of Tribal funds, has been that a resolution must be made by council to have a signature of six members of the Executive to draw moneys for an agreed purpose, not and individual on his own regardless of position.

Most humbly yours for the humble and weak members of the Swartkop Bakwena Ba Mogopa Tribe.

1. John More

2. George Rampou
3. Jacob Moloatsi
4. Phillip More
5. Peter More
6. P. Tladinyane
7. S H More
8. Matthew Kgatitsoe

Frustrated by the government's stonewalling, the community apparently kept shopping around for legal representation, even though they already had instructed Bowman Gilfillan and may have approached Raymond Tucker (a solo practitioner). On 12 January 1983, Geoffrey Budlender of the Legal Resources Centre spoke by telephone with Mr Pretorius of the Department of Co-operation and Development about the proposed removal of the tribe to Pachsdraai. After reporting back to the tribe, he wrote Pretorius a very conciliatory letter on 19 January:

Our clients are willing and anxious to discuss the details of the proposed resettlement. They state, however, that the planning committee which has been appointed is not representative of the tribe and does not enjoy the confidence of the tribe. Further, they state that the committee as it presently exists does not report back to the tribe on its discussions with the Trust, and as a result large numbers of members of the tribe are completely in the dark as to the details of the proposed resettlement. Our clients would be willing to participate in a properly elected planning committee in order that they may be fully informed.

We are aware, as we understand you are, that in fact there are two groups within the tribe which are at loggerheads with each other. We understand that Supreme Court litigation is pending in this regard. It seems to us that it would be in the interests of all concerned if both groups were to participate in the planning committee.

We shall be obliged if you would consider this and let us have your response as soon as possible, as our clients are understandably anxious about the situation.

S J M Swanepoel, Director-General for Co-operation and Development, continued to stall, writing only on 7 March to ask for "the names of your clients and the letters of authority whereby you have been appointed."

During the year following the July 1982 creation of the "Planning Committee," Jacob More and its members sought to "persuade" the rest of the tribe to move to Pachsdraai, threatening the recalcitrant with forcible removal and denial of compensation. Four houses were demolished when the committee incorrectly identified them as belonging to those agreeing to move; the owners sued for damages.

On 23 June 1983, Jacob More moved to Pachsdraai with about ten other families, including the members of his "Planning Committee" and former councillors. They allocated themselves the best houses at the new site. Jacob More, who had lived in a traditional stone house, occupied the former white owner's farm house on the river. The others obtained brick houses and farmland. At least some of those who moved later had to pay R400 for access to farmland and were not given no receipts. Shopkeepers also were told that they would have to obtain trading licenses from Jacob; many refused to apply.

The Department of Co-operation and Development promptly demolished the houses of those who had left, as well as the schools (whose materials were later trucked to Pachsdraai and stored in Jacob More's yard). The teachers had already been withdrawn by the Bophuthatswana government. The termination of schooling further demoralized those who remained. Mr L Pretorius of the Department of Co-operation and Development directed the removal in Mogopa, telling people that only those who moved "voluntarily" to Pachsdraai would be compensated for the houses destroyed. Andrew Mpshe, a migrant laborer in Johannesburg, had a long-standing marital conflict; after his wife accompanied her family to Pachsdraai without informing him, his house was demolished without notice. Enoch Rathebe resisted the removal and fought with his brother and his brother's wife, breaking her arm. While he was in court in Ventersdorp answering their charges his house was demolished. He was acquitted.¹⁶

The Department also destroyed the four churches—Presbyterian, Methodist, AME, and Roman Catholic—and the medical clinic. The magistrate halted the 18 km bus service linking Mogopa and Ventersdorp. Two water pumps filled the community reservoir. Although Ishmael Rampho had taken them to his house for safekeeping (he was repairing one at the time), Jacob More asked the magistrate to get them. They were trucked to Pachsdraai, and Ishmael was charged with theft. Magistrate de Villiers threatened to withhold pensions unless people moved to Pachsdraai. He told the old people that the farm had been sold and they had two weeks to leave. He also refused to endorse the reference books necessary for employment in urban areas or issue new books to school leavers seeking work. When white farmers began cutting fences and allowing their cattle to graze on Magopa land, de Villiers refused to help the tribe impound trespassing cattle, telling them they must take their case to Pachsdraai. At the same time, white farmers were impounding Magopa cattle that strayed onto their farms. The Department kept bulldozers on Magopa property as an ongoing threat until the tribe threatened an interdict, which forced their withdrawal.¹⁷

By 21 August 1983, 170 families had left for Pachsdraai, but more than 300 continued to resist removal. On 27 September Lauren Gower (*Sunday Express*) and Joanne Collinge (*The Star*) interviewed Louis Pretorius, Assistant Director of the Department of Co-operation and Development. He said the removal had begun in 1981. Pachsdraai was Development Trust land; the Magopa could retain their [nonexistent] mineral rights at Mogopa or obtain new rights at Pachsdraai. Although Mogopa had not been sold, it probably would be expropriated. The schools had been demolished because

Bophuthatswana had withdrawn its teachers. He refused to discuss the pumps because they had been stolen and the matter was sub judice. The churches had been compensated for the buildings destroyed.¹⁸

The removal, which had received no media attention whatsoever, suddenly burst into the press in September. *City Press* ran a feature story entitled "Bulldozed Out Of Their Church."¹⁹ George Rampou, described as secretary of the 12-person tribal council, attributed the events to the accusations of corruption levelled against Jacob More. Isaac More, 85, bemoaned the fact that "our children are without schooling and our churches are gone." Bophuthatswana President Lucas Mangope refused to intervene in the controversy, although he welcomed anyone who wished to move to the homeland. Bishop Tutu denounced the government action as "high-handed and careless." Five days later *The Star* described the removal as a mystery.²⁰ "The Department of Co-operation and Development knew nothing of the removal and was unable to trace any information on the property, a department spokesman said after investigation." The article noted that the presence of a diamond mine rendered the land "especially valuable." Elders insisted that the land could not have been sold without their knowledge.

That weekend the *Sunday Express* ran a feature story entitled "The Promised Land," focusing on the conditions of those who had moved.²¹

Forlorn people in a resettlement camp at Pagsdraai [Pachsdraai] near Zeerust have been shattered by the suicide of a male member of their community who hanged himself this week.

His death focused attention on the appalling living conditions in the camp, which its inhabitants—moved there against their will—ironically call "the promised land." . . .

At Pagsdraai, conditions are dry and primitive. There is no food, no grazing—and no water. Pagsdraai is nothing more than a crusty dustbowl.

There is no tap water—in fact, when I visited the settlement this week, the only water I found were the bitter tears of the people of Pagsdraai.

The article declared that Pachsdraai was more than 200 km from Mogopa and 50 km from the nearest town (Groot Marico). Although 213 families had moved, 115 remained. (All these figures are wrong.)

After three months, the people are regretting their move. They say they want to return to the peace and prosperity of Mogopa where drought was unknown, work was more easily available and the community united.

Another woman said she had not wanted to leave the home where she had been born and had lived all her life. "But when they stopped paying pensions in Ventersdorp what could I do?"

Lauren Gower's interview ended when a car drove up and four whites got out, telling him to leave immediately and demanding to know whether the photographer had taken any pictures. Asked to report to the local office of the Department of Co-operation and Development, he questioned P B Cornelius, who said (falsely) that the visit was illegal because Gower had entered government trust land without permits, which were necessary because "the area can be dangerous." Another Department spokesman lied that the tribe had been told of the move five years earlier and that the government had bought the Zwartkop farm for white farmers "many years ago."

The *Sowetan* picked up the story at the end of the month.²² It quoted Issac More, whom it described as the headman.

What has happened here is more tragic than confusing. Our parents bought this land. It is ours. Now we are told that we have to move. Why? The fact that we still have the title deed to this land is ignored. We dug the water holes, built the schools and churches and to see all these achievements now just rubble pains my heart. We do not know what is happening in Mogopa. All we are told is that the law is chasing us away.

A companion article repeated the (apocryphal) story about diamonds: "the government is going to buy their land which is reputedly rich in minerals, particularly diamonds. There are currently a number of white diamond prospectors in the area."²³ This version said that at least 211 families had moved while 320 were resisting. It also quoted Isaac More: "We will not move until we are addressed by the paramount chief, Chief Lerothodi Mamogale."

M S J Swanepoel, spokesman for the Department of Co-operation and Development, hoped the people would be law-abiding and move. "I think the people must realise that they will have to move at some stage." He explained the move as part of the 1975 scheme for consolidating the homelands. "Pargsdraai [sic] will be given to Bophuthatswana after it has been fully developed and the people are being moved there to eventually be part of Bophuthatswana." Mogopa would be bought from, and Pachsdraai sold to, the tribe. He attributed the demolition of the schools to the withdrawal of teachers and equipment by Bophuthatswana, although he could not explain how that homeland could act outside its territory. He assumed that the churches must have requested the demolition of their buildings when they moved to Pachsdraai. The government did not recognize Lerothodi Mamogale as paramount chief of the Bakwena, but South Africa had consulted with the government of Bophuthatswana.

On 2 October the *Sunday Express* reported that "Defiant Bakwena must move—official." Now the government was unambiguous. Louis Pretorius, assistant director of rural settlement, expected to call a meeting in Mogopa. If the older people who remained were unable to rebuild their houses, Pretorius assured them that their neighbors would help them. He reported for the first time that the government had paid

R688,831 to the 182 families who had moved but refused to disclose what Jacob More received. He also declined to discuss the suicide beyond insisting that the motives had been "entirely personal." He denied that there was any lack of water in Pachsdraai, despite the drought. And he promised those who moved that the local farmers' association would give them preference in employment.

The following day the *Sowetan* ran two more articles by Zwelakhe Sisulu.²⁴ "Village the Govt Broke" painted a dismal picture: "Today, what was once a proud village is a spooky rubble; children have no schools to go to, worshippers no churches, and the sick no clinics—because they have all been demolished on instructions from the South African Government." According to Jacob Moloatsi, a member of the council (kgotla): "We were never consulted or even officially informed about the removal. We heard rumours and the next thing we knew there were bulldozers coming to destroy the village. Further we are being taken to a strange place we do not even know." Sisulu continued to describe the land as "rich in minerals." "While the village is being destroyed, 200 metres away the diamond prospectors still dig the land—unperturbed at the happenings in the village."

In a second article entitled "Good to move, says Swanepoel," Sisulu interviewed Frans Swanepoel, a diamond prospector since the area was opened in 1970, who has been paying the tribe R75 a month for water. Swanepoel derided the allegation that the removal was a device to steal the Magopa's mineral wealth, but he supported the move.

I am sorry to see the people leave. I will miss people like Ou Johannes here.

But I don't blame the Government for moving them. These people can hardly grow mealies for themselves, let alone for us and you people in the cities. We are a growing nation and we need farmers who can grow food.

These people have not been able to utilise this land meaningfully in spite of being on it for a hundred years.

Swanepoel had leased his own farm in 1970 to become a full-time prospector. "I have done quite well for myself. The biggest diamond I sold fetched R25,000." Although the price of diamonds had declined "the fact that you people [i.e. blacks] now buy diamonds for your wives helps things." He bought 100 claims for a rand apiece from Kuper in Pretoria; he understood that the Magopa had sold their mineral rights to Kuper for £6,000.

Aggrey Klaaste made Magopa the subject of his column "On the Line" in the *Sowetan* on 11 October. Buried in endless digressions and suffocating narcissism were two points. Although urban Africans viewed places like Mogopa with contempt bordering on horror, their inhabitants loved them like any other home. He also disseminated more misinformation about the farm's alleged wealth: "The trouble with Mogopa is not that it is a black village in a so-called white area, but it has wealth stored

under its belly—diamonds." *Learn and Teach* also ran an illustrated story about Magopa entitled "When the Bulldozer Came."²⁵

On 21 October Nicholas Haysom, the community's new attorney, wrote Dr Piet Koornhof, Minister of Co-operation and Development, on behalf of Shadrack More, John More, Lazarus Kgatitsoe, Mathew Kgatitsoe, and Paul Tladinyane. Fearing that the destruction of the houses of Andrew Mpshe and Enoch Rathebe would be repeated with other victims, he demanded an undertaking that this would not occur and withdrawal of the bulldozer. After he threatened to apply for an interdict, the Department complied in November. Haysom followed this with a letter on 16 November to Mr Pretorius in the Ministry of Co-operation and Development, detailing the property damaged in June and July.

II. REMOVAL

But the government was not to be stopped. On 10 November State President M Viljoen secretly issued the removal order (in Afrikaans).

Whereas I consider it in the public interest that you, the members of the black tribes, the black communities and the black people living in the Released black areas of Zwartrand and Hartebeeslaagte, district of Ventersdorp, province of Transvaal, together with the members of your families, must move to the Pachsdraai district, which includes portions of Rooderand and Doornlaagte, district of Groot Marico, province of Transvaal.

So it is that I, by virtue of the power vested in me in Section 5(1)(b) of the Black Administration Act 1927 hereby order that you . . . within the period of 10 days from delivery of this order to you, must move. . . . And I order further that you . . . may not at any time return. . . .

The media did not report this order for a week. On 17 November *The Star* headlined "300 families must go." The Department of Co-operation and Development had told the community a few days earlier that it would formally serve notice of the removal at a meeting on 18 November. That day Magistrate de Villiers read the notice to the community, which resolved that no one would move voluntarily. Nevertheless, the removal trucks drove into the village every day thereafter.²⁶ Haysom protested that the State President had not followed the procedure specified by Section 5 of the Black Administration Act: since the tribe had not consented to the move, it had to be approved by a resolution of Parliament. The following day the *Rand Daily Mail* offered a more dramatic version captioned "'Apartheid with a velvet glove?'"

At 10am this morning an entire community—the Bakwena of Magopa, near Ventersdorp in the Western Transvaal—will be informed that they are to move from the land they have lived on and farmed for more than 70 years.

It quoted Laurine Platzky's warning that grand apartheid still planned to move 2 million more blacks, 1.1 million of whom—like the Magopa—lived in "black spots." The government had changed its strategy but not its goal. A 1982 circular from the Director-General of Co-operation and Development instructed that "the advantages of settlement must be systematically brought to the attention of these people" in order to "motivate" them to move. Hennie van der Walt, then Deputy Minister of Development and Land Affairs, had spoken to *Die Vaderland* on 17 June: "Our biggest mistake was that we did not undertake these resettlement actions in co-operation with the black communities. A lack of consultation between the Government and the black people concerned led to numerous unfortunate incidents." The story detailed the denial of governmental and private services and amenities used to obtain "co-operation."

On 19 November *The Star* reported the previous day's meeting under the headline "Quit or force will be used—official." Protected by a heavy police presence, Magistrate P de Villiers told about 150 residents that they had ten days to move. Those who failed to do so by 29 November would be "loaded up by force and moved." Lorries would arrive in Mogopa on 21 November. Residents were further angered by the presence of Jacob More, whom they viewed as a government collaborator. When they objected, Danie Smith, representing the chief commissioner, told them: "There is only one item on the agenda. You are here to listen to the order of the State President—that's all." But residents emphasized that they had not been properly consulted and never agreed to move. Some adverted to the issue of diamonds, but the government denied that they owned any mineral rights. Magistrate de Villiers dismissed their complaints: "When we held talks you sat to one side. Today you come crying." Nicholas Haysom reiterated that the tribe contemplated legal action and observed that Section 5 made no provision for compensation. Two days later more than 285 adults met and authorized Shadrack More to bring a Supreme Court application to halt the removal.²⁷

The Star expanded on its earlier story on 21 November under the headline "Govt will 'force' Bakwena Out." One accompanying photograph was captioned "The children of Magopa . . . their school in ruins, they now share the household chores"; another showed "The disowned headman, Mr Jacob More" hiding his face from the camera. The residents gave numerous reasons for refusing to move: the improvements they had made, the lack of rain in Pachsdraai, and the mineral rights. Lazarus Kgatitsoe warned of the hatred that had developed between those who left and those who stayed: "How can we go to a place where we hate the people and they hate us? Does the Government want bloodshed?" A companion article, entitled "Elderly face the order to go with fear and dismay," pictured "World War 2 veteran Mr Elifas Pooe" displaying his medals. "I fought for this country. I don't get involved. But if I must go, then they must build me a nice house in Pretoria." Jemima Lepa said of her mother, Martha Matlae: "She's nearly 100 but still active. She doesn't want to go. This is her homeland—she grew up here." The following day *The Star* pictured six large trucks and described the efforts of lawyers to halt the move.²⁸

On 21 November Nicholas Haysom wrote to Dr Koornhof on behalf of the tribe.

We are instructed to give you notice that in the absence of reasonable negotiations and consultations our clients will remain on the said property after 28 November 1983, which they are entitled to do in terms of s 5(1)(b) of the Act, until the necessary resolution by Parliament as required by the Act has been approved.

Our clients cannot wait until after your Department has committed irreversible and unlawful acts. We hereby demand an undertaking that no forcible eviction of the members of the Bakwena Ba Magopa resident at the above farms will take place until the necessary Parliamentary

Resolution has been approved and until the necessary procedure envisaged by s 5(1)(b) has taken place. Such undertaking is to be delivered or telegraphed or telephoned to our offices by 9 am tomorrow, 22 November 1983, failing which we are instructed to proceed without further notice to obtain the appropriate relief from the Supreme Court.

Koornhof failed to respond by 9 am on 22 November, and the community applied for an interdict in the Transvaal Supreme Court that day.²⁹ Shadrack More, supervisor of the Mapatla Hostel in Soweto, signed the founding affidavit. At a "pitso" on 20 November all adult members of the tribe had authorized him to say they refused to leave. He attached a petition with 270 signatures. Magistrate de Villiers had served the order to leave on Friday, 18 November, threatening that they would be moved "met geweld" (with violence) if they defied it. But the government ignored 70 years of peaceful legal residence. He included an observation whose importance later became crucial.

There is situated on the land a cemetery which has been used for the burial of tribal members. This cemetery is not only considered sacred to the tribe but in terms of tribal custom is regarded as the source of well being for the tribe and must be cared for. In terms of the order made by [de Villiers] no provision has been made for the care of the cemetery nor the right of members to return to the village to look after the cemetery themselves.

The next day *The Star* repeated its feature story on the elderly and continued the count-down. It reiterated the positions on both sides. Danie Smith again blamed the community: "I want to tell you negotiations have been going on for all of six or seven years. You didn't want to walk the same road."

On 22 November Ethel Walt, an executive member of Black Sash, called a press conference to denounce the government's action, warning that it might be the first step in a plan to move all blacks to the homelands in order to justify their exclusion from political power under the new constitution. Members of the Magopa community told their story to more than 25 local and foreign journalists and five members of the diplomatic corps. The American and British governments had issued statements critical of South African policies in recent weeks.³⁰

The Supreme Court application began inauspiciously. Philip More, a tribal councillor, attempted to serve the papers on Magistrate de Villiers, one of the defendants. More's affidavit of service stated:

I know the second respondent personally who had informed me that there was no one at the magistrate's offices by the name of De Villiers.

He told me rudely to get out of his offices in the presence of one Anita Kromberg and George Rampou who had accompanied me. He kicked me on the calf of my left leg and I left a copy of the application at his feet.

But procedural irregularities turned out to be irrelevant. Justice Hendrik van Dyk took only three days to reject the application on the ground that a 1975 Parliamentary resolution recommending "the withdrawal of the Bantu tribes, Bantu communities and Bantu persons residing in the area set out in Schedule B in terms of the provisions of Section 5 of the Bantu Administration Act" authorized the removal. Rejecting the argument that Parliament had to specify the destination, he quoted a 1977 decision: "It is clear that what was intended was that Parliament should have the power to decide the area from which Bantu committees [sic] should be withdrawn, and that [when] the time came to implement the withdrawal, the State President should specify the area to which such withdrawal should be made. . . ."31

John Dugard criticized the decision as a violation of government promises that there would be no more forced removals. He argued that political changes in the intervening eight years had undermined the authority of the Parliamentary resolution. But government told the court that the police would arrest anyone resisting the move.³²

The Black Sash news conference on 22 November produced the intended result. Two days before the deadline *The New York Times* ran an article entitled "Pretoria Moves to Erase 'Black Spot.'"33 Alan Cowell narrated the 70-year history of Mogopa, described the construction of "homes in cut stone of a permanence rare in Africa," and featured a picture of Elizabeth "Katitswe" [Kgatitsoe], who had lived in Mogopa for 30 years, farming and running the Swartkop General Dealers Store, and had built a new three-bedroom house. It related the treachery of Jacob More and described the destruction wreaked by bulldozers: "A walk around parts of the village these days resembles a stroll through an archaeological site: here the ruins that must have been the Methodist church, there a straight dirt road running through the rubble of garden walls, further on the debris that might once have been a school." It correctly noted that "one of the few weapons available to the villagers is to publicize their plight in an effort to embarrass the authorities into restraint."

The same day the *Washington Post* ran a front-page story by Allister Sparks.

This trim little African village 120 miles west of Johannesburg is under sentence of death this weekend. Its 300 peasant families, who have built one of the most stable and prosperous rural black communities in South Africa, have been ordered under the country's segregationist apartheid laws to evacuate the village by Sunday night. If they refuse to go, the government will remove them by force Tuesday.

He also featured Elizabeth Kgatitsoe, the 61-year-old widow shopkeeper, describing her "modern ranch-style home with 10 rooms, tiled bathroom, carved front door and attached garage with an Alfa-Romeo inside." At Pachsdraai she would be given a tent and a tin toilet for six months. Sparks outlined the history of grand apartheid and the community and repeated the threat of civil war if the remaining residents were forced to live in Pachsdraai next to those they considered traitors.

The following day the *Post's* leading editorial was entitled "A Village in South Africa."³⁴

Those wonderful people who brought you the South African government's idea of racial and electoral reform earlier this month (a "reform" that made things worse for the 70 percent of the population that is black) have another terrific project in the works. It is the evacuation and destruction of a village called Mogope [sic] 120 miles west of Johannesburg. . . . [Sparks's article] should serve as a useful antidote to all the cynical propoganda that is being put out about how the Botha government's heart is really in the right place, but it can only move so fast, etc., etc.

Why did the authorities decide to mow down this village in the first place and to dispossess its several hundred families? Well, you don't have to be told: because these villagers are black people and . . . the mere existence of the village in this places violates the concept of apartheid. Mogope constitutes an unauthorized 'black spot,' being 80 miles from where it should be according to the plan to establish racial purity.

So what is to be done? Simple. You just kick the people out and destroy what they have spent decades building up and compel them to go somewhere else—somewhere terrible. [It then quoted Sparks at length]

It is disgusting. But, importantly, it is also what is really going on in South Africa—the hard, irreducible essence of the apartheid system. The next time someone talks to you of savagery and a want of civilization in Africa, don't be so quick to take offense at the language. It is a fitting description of the people who are perpetrating these acts.

The same day a *City Press* editorial also denounced the government.

The tragedy being forced on the Mogopa people exposes us all.

It exposes the nonsense spoken by Dr Piet Koornhof when he says there will be no more forced removals.

It exposes the nonsense spoken by the Government when it claims that it is embarking on reform.

It exposes the gullibility of Western governments prepared to give Prime Minister P W Botha the benefit of the doubt.

It exposes the true role of the homeland governments and their collaboration with the forced removal of people from ancestral land.

It exposes the collaboration of those men and women standing for the new black authorities with a system which is premised on the homeland system and people being deprived of their birthright.

It exposes the reality of apartheid.

Many leaders have warned the Government repeatedly that actions such as that being perpetrated against the Bakwena BaMogopa people will reap a horrifying heritage.

These warnings have not been heeded before, but they must be repeated: Stop this madness now, or accept that we are bent on suicide.

The same issue pictured an old man sitting on the ruins of a destroyed house with the caption "Next week we'll use force" and the explanation "Devastation, sadness and anger . . . a family man turns his back on the rubble that was his home before Government bulldozers flattened it in an attempt to get the Bakwena BaMogopa people to 'voluntarily' [sic] leave their ancestral lands near Ventersdorp." *City Press* consistently described Mogopa as a "thriving" or "flourishing" settlement. In another article it warned that "Mogopa Move 'May Lead to Violence.'"³⁵ The fears apparently pertained to retaliation against Jacob More and resistance to the government's attempt to move residents by force.

The weekend before the deadline expired (26-27 November) Ethel Walt telephoned PFP spokesperson for black affairs Helen Suzman, who was visiting the United States. Because it was Thanksgiving, Suzman was unable to reach any American government official until Monday, when she talked to Chester Crocker, Assistant Secretary of State for African Affairs. The U.S government immediately denounced the threatened removal. *The New York Times* and *Washington Post* articles had helped to educate and shape American opinion.

On Sunday, 27 November, two days before the expected removal, Bishop Tutu and other leaders of the South African Council of Churches met in the Black Sash office with about 20 Magopa.³⁶ Anticipating government allegations of outside agitators, Tutu emphasized that "the SACC would respond only to specific requests from the tribe. We would not seek to influence them in any way." The Magopa wished to remain but were prepared to negotiate a removal with the government as long as they could participate in selecting a site and were compensated for improvements. That night Tutu telephoned Piet Koornhof, who was impressed by the willingness to negotiate. Because he was unavailable the next day he told Tutu to contact his subordinate, Koos Celliers. Tutu also informed Koornhof that church representatives would hold a vigil on the night of 28-29 November to oppose and observe any removal. Celliers was busy on Monday, 28 November, so Tutu spoke with Solly Vermaak, Deputy Director of Land Affairs, who said the removal could not be postponed "because it was both a State President's and Court Order." The Magopa would be moved "gently" on 29 November. The Department could not negotiate further because "there was no alternative land available

other than the Pachsdraai." Celliers telephoned Tutu later that day to reaffirm this position. Archbishop Philip Russell and Rev Fremont Louw tried unsuccessfully to intervene with both Koornhof and the Department.

Fearing the worst, Tutu telephoned church leaders to ask them to participate in the Monday night vigil at Mogopa. They included: Rev Fremont Louw (President, Methodist Church), Rev R Brauteseth (Chairman, SW Transvaal District, Methodist Church), Rt Rev S Ndwandwe (Anglican area Bishop and representative of Archbishop of Cape Town), Rt Rev Luther Mateza (Moderator, Presbyterian Church of Southern Africa), Chris Aitken (General Secretary, Presbyterian Church of Southern Africa), Rt Rev F Bill (Moderator, Evangelical Presbyterian Church in South Africa), Rev J Wing (Secretary, United Congregational Church of Southern Africa), Dr G Lubbe (Scriba, Reformed Church of Africa), Dr K Kritzinger (Administrator, Reformed Church of Africa), Dr Allan Boesak (President, World Alliance of Reformed Churches), Shun Govander (General Secretary, Broederkring), Rev A Massey (Secretary, Wits Council of Churches, General Secretary, Methodist Christian Citizenship Department), Pastor Mogale (representing Presiding Bishop of the Evangelical Lutheran Church in Southern Africa), two Roman Catholic priests (representing Archbishop Hurley, President of the South African Catholic Bishops' Conference), Dr W Kistner, and Dan Vaughan (the last three representing the SACC). On 30 November Bishop Tutu issued a press release describing the role of religious leaders and condemning the threatened removal.

The immediate denouement was anticlimactic. Church leaders, Black Sash fieldworkers, diplomats, newspaper reporters, and television cameras spent the night of 28-29 November at Mogopa, waiting for police who never came. The *City Press* feature story was entitled "Oh Lord, Deliver Us From Evil."³⁷

"Tell your children how they stole your land. Tell your children how they broke down your churches and schools."

The young preacher's voice swirled through the dark, reaching through to the crowd like the cold wind which whipped its way from the north west across the land of the Bakwena Ba Mogopa. . . .

The young preacher, Shun Govender, spoke as though he was conducting a funeral to the material past . . . but also at the baptism of the determination that would carry people into a new and difficult future.

Reporter Howard Barrel referred to the "thriving" Mogopa village as "a 70-year-old monument to self-reliance now under a sentence of death by apartheid." Dr. Alan Boesak had condemned the removal as "the ultimate blasphemy." Bishop Desmond Tutu asked why the removal had to occur "just before Christmas—a feast which celebrates family and community life? Why should violence be done to a peaceful people just before the feast that commemorates the Prince of Peace?" But he and the other clerics had left by noon on 29 November. Hearing that the Potchefstroom police reaction unit was due to arrive at 4 am, a group of residents moved their belongings in five 30-ton trucks to Bethanie, the home of their paramount chief. They (and others) feared their

belongings would be destroyed if the government carried out the move and they would be denied compensation. They also feared violence at Pachsdraai. They moved at their own expense; Mr Thlapi had paid R300 to G J [Lieb] Niemand for use of his 30-ton truck.³⁸

Even though confrontation had been averted, the continuing threat had international repercussions. Protests had been issued by Dr Phillip Potter, secretary-general of the World Council of Churches, the World Alliance of Reformed Churches, and several Dutch churches. On 29 November U.S. Undersecretary of State Lawrence S. Eagleburger summoned South African Ambassador Brand Fourie to express displeasure about the threatened move. The U.S. deemed it inconsistent with South Africa's commitment to reform, demonstrated by the 2 November 1983 referendum approving the new constitution. Even Republican Congressman Gerald Solomon of New York, who had strongly supported South Africa, wrote Prime Minister Botha in protest.³⁹

The Dutch government issued a strongly critical statement on 1 December.

The government have been alarmed by the news about the forced removal of the residents of the [M]agopa, [T]he deliberate destruction of houses, schools and clinics of a rural community which has been living on that one spot for over 70 years, in order to force the residents to move to areas prescribed by the South African government is a flagrant violation of basic humans [sic] rights and strongly condemned by the government.

The government strongly disapprove the action which was carried out within the framework of the so-called resettlement policy. The government deplores the suffering caused by this action of the South African government.

The Dutch government have recently notified the South African Government of their views and have urgently called upon the South African authorities to abandon the decisions mentioned.

Two officials from the U.S. Embassy visited Mogopa on Friday, 2 December.⁴⁰ A spokesman for the U.S. State Department condemned the removal: "The United States has consistently made clear its view that South Africa's problems cannot be addressed constructively by the arbitrary relocation of peoples on an ethnic or racial basis."

Despite this temporary victory, Sheena Duncan of the Black Sash remained pessimistic.⁴¹

It is probably all a failure as far as preventing the removal goes but I don't think we had any illusions about how difficult it is for people to resist successfully. It has, however, been a great success as far as

"raising the political costs" to the government is concerned and it may have some long term effects. . . . One lesson for us, I think, is that it was easy to get the press etc., interested because of the State President's order with its time limit. Up to that time it was just another story that got printed when the Churches were demolished and the occasional feature in the local press. It was the Order which created the sense of urgency. Another lesson, of course, is that the promises of reform which were believed in the West regarding the new Constitution raised expectations overseas which have now been confounded and that makes their reaction that much stronger.

The Black Sash issued a press statement to correct lies in the local media. Radio Setswana said that 150 families had moved peacefully to Pachsdraai. It and Afrikaans Radio reported a meeting between officials and the tribe. And the English Service of the SABC reported that seven families moved to Pachsdraai voluntarily. None of this was true.⁴²

With the deadline past, the attorney for the Magopa, Nicholas Haysom, asked the Department of Co-operation and Development to postpone the move while the tribe sought another place to live, but Koos Celliers, director for land matters, refused. When approached by reporters, Dr Koornhof replied: "I don't intend to make further statements to complicate the issue."⁴³

The foreign media continued to carry the story. *The New York Times* ran a second article, entitled "Eviction Awaited By South Africans," filed on the removal deadline and printed the next day.⁴⁴ Although the government had not acted, the article expressed fear that it would do so as soon as the domestic observers and foreign reporters and television cameras left.

The *New Statesman* carried an article by Howard Barrell of the *City Press* on 2 December, entitled "Death of a Village." It quoted Bishop Tutu's condemnation of apartheid as a crime "as evil as Nazism." Removal was apartheid's "final solution." "You don't need gas chambers if you put people in places where they will almost certainly starve." The *Sunday Express* had written: "The forced removal of the Ba Mogopa people is an atrocity. Note the names of those who do it."⁴⁵

U.S. National Public Radio broadcast an account of the threatened removal on 3 December. It quoted Matthew Kgatitsoe as saying: "We didn't want to go to Pachsdraai. We couldn't understand why we had to go to Pachsdraai. Pachsdraai is not a place we can stay at. It's a dry place. There's no water, there's nothing." This was juxtaposed with the explanation of de Villiers Morrison, deputy minister of the Department of Co-operation and Development: "You do get to a stage when for certain reasons you have to move these peoples. And then you are left with no other option but to move them by force. But generally that is a minority of people. We never reestablish them in an area that has no viability." Then it quoted Aninka Claassens of Trac: "We

are very worried that this might be the beginning of the era of brute force. Because the voluntary system has not worked in many, many cases. . . . A time comes that if they're determined to move them they have to use brute force, because there are many areas where they say they are quite prepared to die." Reporter Louis Freedberg, concluded: "many threatened communities are relying on a growing network of church groups, white liberal organizations, and press publicity to forestall government action."

The *Washington Post* ran a second article by Allister Sparks on 3 December.⁴⁶ The day before (Friday) he had joined eight other correspondents on a helicopter tour of Mogopa and Pachsdraai organized by Louis Nel, who had been appointed Deputy Minister of Information just a week earlier. They arrived in Mogopa (unexpectedly) as a meeting of about 250 people was in progress. Nel shook hands and climbed on a chair to address them. "Dear friends, it is nice to be here with you. It is nice to see people who sing so nicely and who are so joyful. I'm from the government and the government's attitude is that we must help the people to have a better life in this beautiful country of ours. With that I will say goodbye, and may you stay well." The villagers applauded. Phillip More responded. "We are not against the government. But, since the government say they are going to take us away, the people start shivering and getting scared. They get very frightened when you say you are going to throw us into the streets." Nel assured them this was not the government's intent. "But I am very glad I came. It is good for me to listen and to hear what you have in your hearts." Nel told the Magopa he would be prepared to meet with them in Pretoria.⁴⁷ On the way back to the helicopter an argument broke out: the tribal elders accused the magistrate of lying, and he responded that the chief elder had been "so drunk he couldn't stand" at the crucial meeting in which the tribe was informed about the removal.

The Star also covered this encounter.⁴⁸ Nel had gone further to allay the villagers' fears. "I'm from the Government and its attitude is that it must help people to have better housing in this beautiful land of ours. It is not the Government's intent to suppress people. If you think the Government wants to throw you into the street, that is not going to happen." The move would continue, however, and he urged the residents to make peace with their former headman. "A white man cannot always solve the problems between black people. We must bring you and Jacob More together so you can solve your problems." *The New York Times* reported the event as well.⁴⁹ Nel had explained that "we have many underdeveloped people. The Government is determined to try and raise the standard of living of all the people concerned." But since this was "not really possible," they had to be moved. "All the members of the tribe did not go voluntarily" but only because of political conflict. "At Pachsdraai there's a better life for them. If it wasn't for this black-black conflict, the whole tribe would have moved without any problem whatsoever. Not one single person has been forcibly removed."

Nel continued to justify the removal when his party visited Pachsdraai. "It is basically a Third World situation, which cannot be judged by New York or London standards." "There is a well laid-out township here. Mogopa, on the other hand, was not planned. It was a sort of informal living together of people, so that if you had

wanted them to stay there you would have had to demolish and start afresh anyway." Pachsdraai offered more and better land, with the capacity to sustain more livestock. It would benefit from being incorporated in Bophuthatswana, which the South African government was helping to develop. Pachsdraai had a staffed health center (Nel denied that Mogopa had had one) and three schools to Mogopa's two. They had cost the government \$1.6 million, and it had spent another \$5.2 million on the move. Nel told the reporters: "We offer a better life here." He claimed that the government had paid residents an average compensation of \$1,700 per household, which they would use to build new homes. Raditoni Noge, headmaster of the new primary school, praised the move: "It is a much better place. The school buildings are better, people can grow gardens here and I am very much happier." But once out of the hearing of officials, several families expressed serious reservations. Women and children had left only because the schools were demolished.

The Magopa responded to Nel's surprise visit by contacting his secretary the next day and arranging a meeting for the following Monday.

On 3 December Koornhof finally broke his refusal to comment by issuing a statement about the removal.⁵⁰ He said many Magopa families were moving voluntarily to Pachsdraai, an "attractive part of the Transvaal bushveld." He exaggerated the deficiencies of Mogopa: few buildings, no planned residential area, only three faucets far from homes, and barren rocky soil unsuitable for cattle or crops. Pachsdraai, by contrast, "is anything but arid." The new settlement was nearly 50 percent larger than the old (10,600 versus 7860 hectares, or 26,193 versus 19,422 acres). The purpose of the move was to provide "better living conditions and prospects" as well as to bring together Tswana speakers. Those who had already moved had received an average of R2000 compensation—as much as R23,000 in one case. He blamed the residual opposition on "an apparent rift between factions in the tribe as a result of a power struggle concerning the headmanship of Mr Jacob More, leader of the majority group at Pachsdraai." The Black Sash promptly characterized Koornhof's statement as a "malicious distortion." People were moving to Bethanie rather than Pachsdraai, and one Pachsdraai resident had committed suicide.

Upset about critical reports in the German media, the South African government issued a press release (in German) on 5 December seeking to justify its actions.

Since June 1983 about two-thirds of the members of the Bakwena Ba-Mogopa tribe have moved voluntarily to their new home at Pachsdraai. . . .

All families were compensated when leaving Swartrand according to law. They received an average of R2000, in some cases more than R28,000 have been paid out for the properties left behind. . . .

The reason for rejecting the order to leave the land voluntarily appears to be a split within the Bakwena tribe. . . .

At Pachsdraai every families receives one half hectare ground to build a house on, and the Ministry of Community Development makes available corrugated iron houses until such time the new houses are finished. Water has been laid on, free of charge. Pachsdraai lies in a pretty densely wooded area. The term "dry" could be coined for Swartrand, certainly not for Pachsdraai. Pachsdraai has already 3 new schools which were built at a cost of R650,000 for each school. These schools will be able to accomodate 950 children. Further there is a fully equipped clinic with two qualified sisters and additional personnel. A Roman Catholic parish center is being built, there are twice daily bus connections to Zeerust, Groot Marico and to the western part of the Witwatersrand.

Swartrand, in contrast, has no planned settlement area. There are only two watering points, operated by hand, both of which are far away from the houses. The ground is rocky and infertile, unsuitable for agriculture and cattle raising. The tribe had relinquished its mineral rights in the Mogopa area already in 1930.

Despite these public relations efforts, the government continued to face hostile media at home. The *Sunday Tribune* devoted a full page to "The Tears for Paradise Lost."⁵¹ It began very dramatically:

As the early morning mist lifts over Mogopa, it reveals soft green rolling hills dotted with stone houses and kraals. The raucous braying of a donkey breaks the silence as the animal prances up and down outside its owner's large house.

It would be a rural paradise but for the weeping of its people.

There's a soft sobbing in the community's neat graveyard as a young woman leans on the cairn of stones marking her father's grave. A toddler whimpers at her side.

"We come this morning to say farewell because we don't know where we will go," says the woman's granny, Mrs. Maria Segalo.

A companion article entitled "From dream to nightmare: Gone . . . the house that Phillip built in 27 years" described the "four-bedroom home that would not look out of place in any white middle-class suburb."

The paper went on to contrast Mogopa to Pachsdraai (in pictures as well as words).

Situated on expropriated white farms north of Zeerust—originally called Sebatlani (the place of dust)—Pachsdraai is in a corridor of land between two pieces of Bophuthatswana on the Botswana border and is due to be incorporated in Bophuthatswana later.

The contrast between the semi-arid bushveld of Pachsdraai and the arable grasslands of Mogopa is startling. . . .

There is no grass, not even under the trees, and in the vegetable patches the mealies and beans push through the sand, encouraged by daily helpings of water delivered by lorry. A couple of streets have taps at intervals along one side. We see no livestock apart from chickens.

There was no work for the men, and a round trip to the nearest town cost R5. Although the new school had a good physical plant, 80 percent of the teachers threatened to resign because the tribal authority interfered in their work.

Koornhof, Nel, Celliers, and seven other officials met with Mogopa and Pachsdraai residents (including Jacob More) for six hours on Monday evening, 5 December. Only six people from Mogopa were allowed to attend. They were surprised and unhappy that Pachsdraai residents had been invited to the meeting and their own lawyer (Haysom) excluded. If they had to move, the Magopa sought compensation and land in Bethanie, near their paramount chief.⁵²

They restated their position in a memorandum apparently submitted to the government that day.

The question of Pachsdraai and the facilities there does not concern us. The tribe deposed Jacob More in 1981 and since then he had had no right to represent us. While in the past the department respected the decisions of the tribe, for some reason it chose to ignore the tribe on this issue.

The "negotiation" of the Removal to Pachsdraai was kept secret from us and so has nothing to do with us. The obvious problems which have followed this high handed treatment can thus be attributed to the conduct of certain of your official and not to us.

According to Tribal Law and statute, an open meeting of adult members of the tribe must be held before land transaction can take place. No such meeting was held with regard to Pachsdraai.

They also posed the following questions.

Will the Government use force to move us from our homes before Christmas . . . or before harvesting time in August 1984?

Will the Government compensate us for our land and all our improvements—including schools—in the Bethanie district?

If it will not, will the government allows us to remain in Mogopa?

If the Government forces us to leave Mogopa, will the government provide transport to a new area of our choice?

We request the result of the Commission of Enquiry onto Jacob More's alleged corruption. . . .

We need urgent replies to these questions because the tribe is living in terror and the old people cannot stand the strain.

They received no answers from Koornhof. Their request to see the results of the Commission of Inquiry into Jacob More's handling of tribal finances was denied once again.

The community met on Tuesday, 6 December, and decided not to accept the offer of government buses to visit Pachsdraai (although the government dispatched them anyway) but to go in private transport on Friday, 8 December. On Wednesday, 7 December, they told government evaluators they would not allow their houses to be appraised (for compensation) until they had agreed where they would move.⁵³

On Friday, 9 December, Solly Vermaak, Deputy Director of Land Affairs, and Ben Wilkens, Deputy Minister of Land Affairs, conducted a second helicopter tour of Mogopa and Pachsdraai, this time for local journalists.⁵⁴ The government disclosed that it had already spent R7.9 million on the removal, of which R4.4 million represented the cost of the land. The journalists were told by Alex Pooe, a member of the Pachsdraai tribal council, that the government and the Bible had decreed that each tribe should go to its own homeland. Johannes Andrews, council secretary, warned the journalists not to defame the tribe and the government by writing that the removal was coerced.

By coincidence, the Mogopa delegation also visited Pachsdraai for the first time that day.

They were amazed to see that Jacob More was installed in a large house with a sign post referring to it as a "G G Office." They were concerned to see the materials from their demolished schools in his yard. Miss A Claassens of the Black Sash asked Mr L Pretorius of the Department how it was that the "Planning Committee" had all the substantial structures at Pachsdraai and Mr Pretorius replied that the headman and his councillors had the power to allocate resources as they saw fit.⁵⁵

Over the weekend the Mogopa delegation reported to the community about their visit to Pachsdraai, showing samples of soil and vegetation. The community decided against moving to Pachsdraai and drafted a letter to Dr Koornhof.

The same tour that provoked the foreign press to scathing criticism seems to have persuaded even those South African papers often critical of government to credulous acceptance of its line on the removal. The *Sunday Times* reported the simultaneous visits to Pachsdraai two days later under the headline "Mogopa tribe bows to 'The Law,'" accepting the removal as a fait accompli, and presented the government's version as a factual account.⁵⁶

Facilities at Pachsdraai and future development prospects are better than at Mogopa.

The government is handling the removal with far greater circumspection and sensitivity than preceding ones.

Opinions of the original Mogopa people seem genuinely divided between those who see Pachsdraai as a better place and those who adamantly refuse to move.

A long-standing leadership squabble in the tribe presaged major difficulties when removals began, but were apparently ignored by the Government.

Genuine conflicts of economic interest between the Mogopa factions could lie at the root of the refusal by some to move.

The paper insisted the issue was not "the ethics of being made to move" but an intratribal and economic conflict. It noted that "clan leaders" received 15 hectares of arable land at Pachsdraai, and other allotments reflected social standing. The article concluded by quoting Johannes Andrews again: "The Government must be obeyed. It is the father and the mother. It is the giver of things."

The *Pretoria News* concurred in an article entitled "Fate of Magopa is sealed."⁵⁷ Jacob More explained that the tribe was "not forced" to move but did so because Mogopa was declared a black spot and "we must obey the government." Pachsdraai was "95 percent better" than Mogopa. Alex Pooe added: "The resettlement was in fact a move from Egypt to Canaan." The paper reported that "the majority of people chorused these sentiments" and were "fat and happy."

The Magopa had never intended to accept the Supreme Court judgment as the last word. On Monday, 12 December, Haysom asked the court for leave to appeal. The same day the community sent Koornhof the letter they had drafted over the weekend, signed by Shadrack More, Jacob Moloatsi, Matthew Kgatitsoe, John More, John Pooe, Gershon Rampou, Philip More, and Lucas Kgatitsoe, with George Rampou on the return address. Koornhof's office acknowledged receipt at 11 am Tuesday.

The committee and the tribe have decided that Pachsdraai is not a satisfactory place. It is one hundred and fifty kilometres away from Mogopa. It is also very far from the Witwatersrand where many of our people work. The nearest town with proper shopping facilities is Zeerust which is 69 kilometres away. There are no employment opportunities for our young men and women nearby.

From an agricultural point of view Pachsdraai is not suitable for us. The part which borders on the river is nice and green, but the rest is like a desert. Mr. Pretorius took us to the boundaries of the farm and showed us fields which look as though they are covered with ash, nothing grows in these fields, not even grass. The cattle we saw were much thinner than those at Mogopa and we saw the skins and bones of dead cattle lying in

the veld. There is not good soil there, it is either like clay or like sand. The grazing land is covered with trees. There is hardly any grass. The grass that we did see was dead and dry. The place looks like the middle of winter, not the middle of summer [when the rains fall].

We noticed that the main crop on the farms next to Pachsdraai is irrigated tobacco. We don't have money for irrigation and big agricultural schemes. . . . [At Mogopa] the old people . . . all have fields and even if they don't have the strength or money to plough, their fields are sharecropped by others who give them half the yield, which is the food they rely on for the year.

At Mogopa houses can be built cheaply because local stone and daga can be used. At Pachsdraai housing materials would have to be bought, and this is an expensive way to build. Furthermore there are termites at Pachsdraai which means special methods of building with tar would have to be used.

We hear that at Pachsdraai some people get more land than others and some do not have fields at all. We see this as very dangerous, it is the beginning of business farmers getting all the land and the old and the poor who really need it getting nothing. They would have to live like location people.

We hear too that the "tribal elders" allocate the land, and we presume they are the same tribal elders who allocated themselves white farm houses. . . .

All these things make us think that JACOB MORE is continuing with the same practices at Pachsdraai which made the tribe reject him as their leader in Mogopa. . . .

It breaks our hearts to see the door and window frames of the schools we built at Mogopa piled in his yard at Pachsdraai. We cannot live under someone who is forced on us after he was democratically deposed. . . .

For all the reasons we have given in this letter we are not prepared to go to Pachsdraai. We ask to be allowed to remain at Mogopa. Mogopa is our home and we do not want to leave it for anywhere else. However if the government is determined to force us to move we are prepared to negotiate proper compensation for our improvements and our land at a new place near our ancestral lands in Bethanie.

We request that in future meetings our lawyer should be present, and JACOB MORE not invited unknown to us. We also request that we be represented by a number of people at least equal to the government officials present. We further request the minutes of the last meeting.

We hope and trust that it is possible to negotiate this matter in a way that befits human dignity. We have faith that you as a Christian will approach this matter in a way that takes account of our terrible suffering.

On Tuesday, 13 December, a rumor circulated that five government trucks had arrived in Mogopa to remove more families. People rushed to the site only to find that a man

already living in Pachsdraai had hired the trucks to remove the belongings of his mother, who had recently died.

Jules Browde, SC, chairman of Lawyers for Human Rights, wrote P W Botha on 13 December, quoting a famous Appellate Division judgment in which Chief Justice Watermeyer wrote "the individual citizen provided he obeys the law of the land, is not liable to have his personal freedom restrained by executive action. . . ." Perhaps the State President

was not aware of the fact that the tribe had occupied the land for well over fifty years, that they had built their own churches and schools and that the community was entirely self sufficient. . . . Your Excellency may be interested to know that during the Second World War the village donated £600 to the war effort to assist the government to purchase an aeroplane. . . .

There is situated on the land a tribal cemetery. This cemetery is considered sacred to the tribe and in terms of tribal custom is regarded as the source of well-being for the tribe.

He pleaded with Botha "for humanitarian reasons alone, to stop the removal of the tribe until the legality of the removal has been decided by a court of appeal."

Lawyers for Human Rights called a press conference at the Centre for Applied Legal Studies of the University of the Witwatersrand the next day.⁵⁸ Professor John Dugard, the Centre Director and a member of the LHR executive, asked the government to postpone any action until the Appellate Division had an opportunity to rule on the pending appeal. The conference was attended by Helen Suzman (PFP spokesperson on black affairs), Black Sash representatives, and the committee of Magopa residents. The latter denied that their reluctance to move arose out of a split in the tribal leadership. John Brand, who had been their lawyer at the time of the alleged deposition of Jacob More, said that the Department of Co-operation and Development maintained that the tribe had no authority to remove a headman under §2(8) of the Black Administration Act of 1927. At a rally in Soweto, Chief Buthelezi said the threatened removal demonstrated that "it is just not true that we are entering an era of reform in SA."⁵⁹

In late December government officials said the removal would not occur until the legal process was exhausted.⁶⁰ Encouraged by the government's failure to remove them forcibly on the 28 November deadline, the community sought to reconstruct Mogopa. They bought a pump and collected money for a school. On behalf of Shadrack More, "duly elected as the headman by tribal law," and seven other elders, Nicholas Haysom sent the Ventersdorp magistrate a list of complaints. Because two-thirds of the Magopa remained and retained legal title to the land he protested the magistrate's erroneous statement to the tribe that they had no legal right to reside there. Haysom also criticized the magistrate for failing to impound the cattle of white farmers unlawfully

grazing on tribal land, refusing to pay pensions, destroying Mr Mpshe's house after assuring this would not happen, refusing to issue or endorse reference books, ordering the bus company to cease service, and arranging the removal of water pumps. Haysom threatened to sue if the magistrate did not begin performing his duties within 14 days. In January the magistrate resumed paying pensions and issuing and endorsing registration books.⁶¹

The American media picked up the story again early in 1984. *The New York Times* ran a feature entitled "How Apartheid Uproots and Transplants Millions," discussing removals in Mathopestad, Badplaas, and Mogopa, illustrated with photographs of men destroying a building in Mogopa and an 80-year-old woman told she had to relocate.⁶² The Pacific News Service offered a story entitled "South Africa's black landowners hold on against extreme odds."⁶³

Mogopa became a point of contention in Parliament during a no confidence debate at the end of January.⁶⁴ PFP spokesperson on black affairs Helen Suzman noted that the U.S. House of Representatives had voted for very strong sanctions in late 1983.

[N]othing could be more damaging to the pro-South African lobby than the sort of headline stories that appeared in the *New York Times* and the *Washington Post* shortly after the [constitutional] referendum while these very measures were having their passage through the House of Representatives about forced removals in South Africa.

VLOK: Oh!

SUZMAN: It is no good the hon the Minister saying, "Oh". I was there at the time. There were large banner headlines about the removal of the Bakwena people from Mogopa. A sharp editorial in the *Washington Post* described it as disgusting and part of the "hard, irreducible essence of the apartheid system", which of course it is. The Mogopa have been given a reprieve, and I have no doubt whatever that it was through a little constructive engagement of Washington that they obtained that reprieve. . . . Now, of course, the Government is indulging in what I call more subtle means to get the people to move, by dividing the community, by offering a tribal dissident a piece of land in the new area. . . . I want to tell the House from personal experience that it is no easy task to talk in, say, the United States on campuses against disinvestment, against isolation, against economic sanctions against South Africa. . . . the task is impossible when we get the sort of stories such as the Mogopa removal.⁶⁵

The next day Suzman asked Koornhof about the investigation into misconduct by Jacob More. The government replied that Principal Commissioner D Rautenbach, "who has a Diploma Iuris," was appointed on 14 November 1981 and completed the inquiry in January 1982. The Ventersdorp Commissioner told the tribe on 17 May 1982 that the allegations were unfounded.⁶⁶

The day after Colin Eglin (PFP, Sea Point) condemned "the forced removal of the people of the village of Magopa." When Deputy Foreign Affairs Minister D Nel interrupted that "nobody was forcibly removed," Eglin replied:

Of course they were forcibly removed. . . . They had no option but to move. To hold a pistol to somebody's head and say: If you do not move voluntarily we are going to force you to move, is in fact a forced removal. [Interjections] It was this particular action which put President Reagan's policy of constructive engagement under severe pressure. In fact, it was events such as this that eventually caused the President of the USA to say: "In South Africa, the apartheid system institutionalizes racial injustice."⁶⁷

Foreign Minister Pik Botha insisted that Mogopa "is not an example of forced removal at all." The government had begun negotiating the move in 1975. "The town was not planned . . . conditions were undesirable. . . ." There were squatters; schools "could only be described as shacks or dilapidated slums. No proper hygiene measures were taken. . . ." "The majority leader," "the main chief, the man in charge there who was recognized as the leader of the people . . . eventually agreed to move after the new place at Pachsdraai was provided with fresh water at points easily accessible and when new schools were built." The area "has scenic beauty and is well vegetated and wooded. A high and primary school were built; clinics were provided and roads were constructed. All in all it cost about R8 million to provide these amenities." "[A]s a result of an internal rift or feud within the family, the main chief moved with two-thirds of the people . . . completely voluntarily and they were paid compensation . . . and their transport was free." "[T]he other brother of the chief saw in this the chance to exert his own chieftainship by remaining. . . . [T]his was purely an African tribal matter. . . ." Unfortunately, some newspapers "started to portray this matter as a forced oppressive move in overseas Press reports . . . without bothering about the facts, because who in these circles in any case knows anything about African dimensions, their sorrows and their possible social rifts?" Botha described the visit by foreign correspondents "at whom the hon members are now laughing."

When they arrived there, there was a person on his feet making some agitating speeches. They then invited the hon the Deputy Minister to address him, which he did. Thereafter he was cheered and applauded. Each came to shake [sic] his hand and the Press people present said that they did not know that this was the truth. . . .

[T]hereafter my colleague, Dr Koornhof, called the two brothers to Pretoria and held a discussion for five hours with them. He tried to reconcile them, and in the presence of the Deputy Minister one of the brothers called him aside and said: "Look, this has nothing to do with Whites, with the Government, with your politics or your policies; it is just that I hate that Bastard." . . . [L]uckily the whole thing died down in the overseas press . . . because now the bad news was out. The South

African Government was not to blame and there was no cruelty involved, but it was a rift between two Black brothers.⁶⁸

Matthew Kgatitsoe, chairman of the Bakwena Ba Mogopa Town Committee, issued a press release the same day in response to these claims.

We were amazed and furious to see the things Pik Botha said about Mogopa in Parliament. There is not one accurate point in his statement. Perhaps the people under him gave him the wrong information and he does not know the following things.

1. He says the removal at Mogopa is an "African tribal dispute between two brothers." The deposed headman Jacob More is not the brother of the new headman Shadrack More. In fact, neither Shadrack nor Jacob have any brothers.

2. He says the people of Mogopa had been "negotiating with the Government since 1975." We would be very interested to know when, where, and with whom these negotiations took place. On 15 February 1982 Mr Pretorius from Co-operation and Development told us about the removal. After that there were some secret meetings between officials and the deposed headman. However, the community was not allowed to attend these meetings, even after we applied through our lawyers that the meetings be made open to the public.

3. He says the conditions at Mogopa were unsatisfactory. Maybe he is talking about the rubble at Mogopa. This rubble is the ruins of our schools and churches and houses. Before these were demolished the conditions at Mogopa were quite satisfactory to us, the people who built them.

4. He says that Pachsdraai cost 10 million rand. Dr Koornhof told us that it cost 8 million. We also pay tax and we believe [this] to be a complete waste of money.

5. He said that two thirds of the families agreed to the move. This is amazing. The small group of people who had secret meetings agreed to the move. After all they got white farm houses at Pachsdraai. Very few families moved with the headman. However, after Mogopa was smashed in June 1983 quite a lot of people lost hope and moved. These people did not know what happened in the secret meetings. They did not agree.

6. He said the problems at Mogopa were a "purely African tribal matter." There were no problems at Mogopa until a purely white commissioner imposed Jacob More on us as our headman after he had been democratically deposed on the 20 September 1981 according to African tribal custom. "The chief is the chief by the people." We went to lawyers about the commissioner disregarded our decision. They told us there was nothing they could do because according to S A law the chief is the chief by the State president. It is shocking that when the

Government has caused a problem like this they try to wriggle out of it by saying it is a purely African tribal matter.

7. Mr Botha said that "Dr Koornhof brought the two feuding brothers together for talks in Pretoria." We the people of Mogopa asked for a meeting with Mr Nel to find out whether the Government was going to carry out the threat to move us by force. . . . Jacob More was brought in to confuse the situation. In the meeting we put questions to Dr Koornhof. None of these were about Jacob More. We still have not received replies.

It makes us very sad that Parliament, the highest body in the country, should be given information which does not reflect what has actually happened at Mogopa.

A few days later a front-page article in *The Star* entitled "Mogopa school rises from the rubble" suggested the possibility of a reprieve.⁶⁹ It pictured a newly built five-classroom brick primary school for 400 pupils, constructed in three weeks (starting 9 January) by those living in Mogopa and paid for by contributions of R15,000 from those employed on the Reef. Workers were plastering the verandah. The project had been organized by five qualified builders, who took time off from their jobs and were assisted by the entire community, including children as young as nine. Timothy Rathebe, 77, who had come to Mogopa in 1913, said "It won't be so easy to get us out. This is our place, this ground is my heritage." Women were repairing the roads. An elderly man said: "Next we want to build a clinic. This work takes your mind off your troubles." The article also noted, however, that the Rand Supreme Court was to decide the following day whether to grant leave to appeal.

On Friday, 10 February, Justice van Dyk refused leave to appeal. *The Times* (London) reported this under the pessimistic headline: "Village stays doomed."⁷⁰ Nicholas Haysom sent a phonogram to Piet Koornhof at 3 pm that day.

We are instructed to petition the Chief Justice of the Appellate Division for leave to appeal in the Matter of Shadrack More versus Minister of Co Operation and Development which instructions we are attending to immediately stop

We request that the order in terms of section 5(1)(b) of the Black Administration Act of 1927 be not executed until this avenue of seeking legal redress has been exhausted stop

Lawyers for Human Rights also requested a stay of the removal.

But all this was to no avail. Police arrived in the village at 4 am Tuesday, 14 February, and sealed it off. They were accompanied by 85 trucks and two buses. Loudhailers ordered people to remain in their homes. Jacob More led the police to the houses of Isaac More and George Rampou, who were handcuffed and put in police vans. Adele More, Shadrack's daughter, said: "They kicked in the door of our house

at 4 a.m. and shouted—'Okay, where are the Black Sash now?' I was surrounded by four men with guns and made to get onto the bus." Someone telephoned the Black Sash that morning, and Ethel Walt and Gill de Vlieg rushed from Johannesburg.⁷¹ A police spokesman told a Black Sash representative that the police were there to "stop people running away into the bush." The police also told both Black Sash and the press that they needed a permit to enter. At Ventersdorp, however, the magistrate told them that the area was closed and the removal had nothing to do with them; Deputy Director of Land Affairs Solly Vermaak was in charge. That evening Piet Koornhof issued a statement that the government was seeking to "persuade" residents to leave voluntarily and all were being "fully remunerated for their buildings and other improvements."⁷²

De Vlieg and two reporters decided to evade the police roadblocks and walk into the village across the hills—a 20 km trip.

When we arrived at the village we were greeted by dogs barking and donkeys braying and an unnatural stillness from the houses. We went straight to Philip More's house, which was empty. We then moved on to Shadrack's house, which was also empty, as was Isaac More's. It felt very eerie, almost as though we had come in after a neutron bomb attack which had eliminated the people but left the houses. It was very obvious that people had left in a rush because their animals had been left behind and there were dog bowls and washing basins left lying outside.

By the next morning 39 families had been moved to Pachsdraai and 35 others had arranged their own transportation to Bethanie. The same day the Bophuthatswana government announced that Pachsdraai would be incorporated shortly. The remaining Magopa families were to leave for Pachsdraai the following day. Unoccupied houses were broken open. Police said a total of 114 families were moved. By this time representatives of the British and American governments were present. Black reporters from *The Star* and the *Rand Daily Mail* were allowed to enter the village. White reporters were referred to the Ventersdorp magistrate, who again refused permission. However, white farmers had free access to the village to buy whatever the Magopa could not take with them. Major Alfonso Scheepers of the South African Police explained: "Right now the people are moving peacefully and voluntarily and we keep in the village in case they need our help. And up till now we have not demolished any of the people's properties because the department concerned will deal with that." The village had *not* been declared an operational area; if police had turned back members of the Black Sash, that was a mistake. (In fact, journalists and others who evaded the police were later arrested.)⁷³

Although Pachsdraai was closed by the police on 14 February, members of the Black Sash and reporters were able to visit it the next day. Shadrack More's daughter described the removal—the door broken in, guns trained on them. Reporters spoke to Isaac More, who "seemed dazed, almost as though he had not grasped what had happened." They were then expelled from the area by Brig. van der Westhuizen.

threatened with arrest, and had their film confiscated. At Swartruggens, on the way back to Johannesburg, the Black Sash encountered a police bus full of people from Mogopa.

As soon as the people on the bus saw us, they rushed to the windows crying out, "We are being taken away, they are going to dump us in Pachsdraai, we don't know what is going to happen!" They pleaded with us to hold their hands. We went around and climbed onto the bus. It was half filled with children, and the other half elderly people, with about 3 middle aged women. These women obviously felt the enormous burden that had been thrust upon them, and with tears streaming down their faces, they told us their experiences. One old lady said: "I was sitting in my house, and four men came and picked me up and put me onto this bus." We watched the bus go on to Pachsdraai with saddened hearts.⁷⁴

The Times (London) carried reports of the handcuffing of Isaac More and George Rampho and quoted schoolteacher Alfred Pooe: "Our village is getting demolished by force. They are hitting some of us when they come to our houses. Whether you want it or not, you are forced to go."⁷⁵

Helen Suzman used the debate over the Part Appropriation Bill on 16 February to castigate the government.

I wonder how many members of the House were struck, as I was the day before yesterday, by the thought that at the very moment that the hon the Prime Minister was telling us that 22 February, next Wednesday, was to be declared a day of prayer and atonement, one of the nastiest aspects of NP policy was being revealed in a little Black rural village in the Western Transvaal?

She refuted Pik Botha's "misinformation about Magopa." He had called Jacob and Shadrack More "brothers. They are in fact not brothers at all. The name More in that area of the Western Transvaal is evidently as familiar a name as the name Dhlamini is in Swaziland. . . ." She described the forced removal and the unauthorized exclusion of reporters, diplomats, and Black Sash. "All that is left of the rural village of Magopa are the ancestral graves and the rubble of broken houses, after 70 years of peaceful occupation." She correctly predicted "that the same glaring headlines will appear in the *Washington Post*, the *New York Times* and the *London Times*. . . ." "Right now, in the United States there is a lobby for disinvestment in South Africa and in 13 different states motions are being moved for disinvestment in South Africa." "This demonstrates . . . that the Government has no intention of deviating from its grand apartheid plan. So much then for all the big talk of reform and change which we heard so much about last November. . . ." ⁷⁶

Ben Wilkens, Deputy Minister of Development and Land Affairs, replied that Jakob [sic] More had moved with 250 families, not "almost 200." Jakob and Lazarus More were "half-brothers" and "according to Black custom" "regard themselves as brothers." Lazarus had said "that according to their tribal custom [Jakob] was the natural successor" to the chief. Wilkens asserted that "according to tribal custom the chief of a tribe cannot be disposed [sic]." "If hon members of the PFP want to act in the interest of that group of people, then they must ensure that they act in accordance with local customs. . . ." The inquiry into Jakob's conduct "found that the bookkeeping left something to be desired, but that no irregularities had occurred." "The findings were made known to the tribe and they accepted them as such." Most of those dissatisfied lived in Johannesburg and Vereeniging. "[A]ll these events should serve as evidence that those people were indeed in a minority and that they were trying to create an impression of power. . . ."

The removal was recommended by the consolidation committee chaired by Hennie van der Walt. "[T]here are certain resettlements that have to take place and just as Whites find it extremely difficult when they have to vacate their farms, Black people, too, find it as difficult to leave their homes." But "the co-operation of the people who have to be moved is obtained as far as possible and they are consulted from time to time in this regard." However, the PFP, Black Sash and others "do everything in their power to make matters difficult for those people." He asked rhetorically whether "they are the mouthpiece of those Black people, or whether they are perhaps using those Black people as a means to other political ends." Wilkens got into trouble when he tried to discredit the dissidents.

Government has made such good progress with the leaders of the national states and the leaders of the independent states that some of those leaders are co-operating with regard to this process in order to ensure that the whole process can be completed to the benefit of everyone involved. . . . I ask on what basis Mr Lazarus More and Mr Philip More, who live in Johannesburg, and who, for all purposes of our discussion, are urban Black people who live entirely in the urban context, can lay claim to their tribal links and their tribal rights in this specific matter. . . . In the nature of the matter, in this process of urbanization, those Black people are becoming less committed to their tribal customs.

SUZMAN: But that is exactly what I said.

WILKENS: Very well, we are not arguing about that. . . . The fact that they are urbanized, still does not mean that they are entirely free of their tribal and ethnic links. It is specifically on those grounds that we contend that the idea and concept of consolidation is not alien to the tribal context of the Black people, not even within the urban context.

He maintained that "in the process of resettlement, their circumstances improved considerably. . . . it must be a development-oriented action." When Suzman interrupted that "they do not want to move," Wilkens demanded: "Why do they not want to move?"

Is it because you indoctrinate them not to go? That is one of the reasons." Although the Opposition had "subjected the hon the Minister to vehement criticism about the way in which he deals with the matter," the "Minister displayed a degree of patience and willingness to take trouble the like of which I have never encountered in any other person."⁷⁷

The next day Wilkens said in reply to Suzman's parliamentary question that 171 (not 174) Magopa families had been moved "but not merely for resettlement but in fact to re-unite the community . . . because the majority of the community had already moved voluntarily." "Every possible effort over more than 4 years had been made to make the move a development-orientated and voluntary one, designed to improve the quality of life of the people concerned. Despite interference and provocation, this goal is largely achieved." In response to her further question, he added:

[I]n regard to people who had been moved after persuasion work had been done at Swartrand, as far as we know, no physical force was used to move anyone in the latest removal action. . . . The people are therefore better off now. . . . In addition, after the valuation [of houses] has been made, the people are allowed to break down some of the material of the houses themselves—they are even assisted in this—to take them with them to the place to which they are moving.⁷⁸

In May, Deputy Minister of Co-operation and Development George de Villiers Morrison reiterated that "the majority moved and those who remained were to a large extent intimidated into remaining. . . ."⁷⁹

On the evening of 16 February, Bophuthatswana television interviewed some of those moved to Pachsdraai.⁸⁰ Several complained of police violence. One woman said she was held on the ground by four policemen: "I was then carried and thrown onto the bus like a pig." The police countered, as usual, by saying they had received no complaints. The following day a protest meeting was held at Khotso House. Dr. Nthato Motlana, chairman of the Soweto Committee of Ten, reported that the police had taken children from their parents and sent them to Pachsdraai alone. Sheena Duncan, president of the Black Sash, said that Ben Wilkens, Deputy Minister of Development, accused her organization and the PFP in Parliament that week of having tried to prevent the removals. She proudly admitted the accusation and promised to continue.

Most of the people who had opted to go to Bethanie where their paramount chief is had their trucks forcibly directed to Pachsdraai by the police despite the fact that they had paid R300 for private transport. . . . We also state categorically that the removal of the people of Mogopa has not been voluntary. [It was] a forced removal and Dr. Koornhof can go on repeating the word "voluntary" as often as he likes. He will not be believed. . . .

Most of the families who climbed onto the lorries and buses did so not wanting to be struck with batons, forced at gunpoint, or physically manhandled and this does not mean they did so voluntarily.

That weekend the *Sunday Tribune* carried a feature story entitled "Pack up and get out! The day the police came for the people of Mogopa. First they lose their birthplace . . . and now their South African citizenship is on the line."⁸¹ They had not been allowed time to harvest their crops, "surprisingly healthy in the drought-stricken lands around them." Nor were they permitted to move their livestock—more than 1,000 cattle, worth thousands of rands. For Shadrack Madibikane, one of three brothers who together owned 70 donkeys, six cows, five horses, two sheep, a pig, 30 goats, and many chickens, "it means they want us to live in a location. If we can't take our animals and ploughs it means we can't farm; where will we get food, work or money?" He turned down a job with Frans Swanepoel, the white diamond miner, who offered him R15 for a 50-hour work week. A white farmer who had been his father's friend was sympathetic but silent. "There are some who would call me a coward for not speaking up for these people. They are good and fine people as you can see, but when they have gone I will have to stay and live in the community of Ventersdorp. These things that are happening are evil but what can one man do?"

The same day the *City Press* carried a scathing editorial: "Mogopa . . . saga of bitterness."⁸² It called the removal "yet another blot on this country's professed Christian heritage." "What alarms us most is the shortsightedness of the Government in refusing to recognise that forced removals are a source of frightening bitterness and anger among our people." A companion story was entitled "Cry the Beloved Mogopa."

I watched as they were dumped at Pachsdraai. I saw their bitter and bewildered faces and heard their cries that went straight to the heart. . . . You can understand the cries in this promised land of broken hearts and tortured souls.
Dead chickens, suffocated in the blazing heat on the 100km journey from Mogopa, litter the area. It's an ominous sign. The first victims. . . .

The removal produced precisely the international outcry that Helen Suzman had predicted. The U.S. Ambassador said "forced removals marred the favourable image conveyed by the strides in South Africa's regional and international relations."⁸³ The Africa subcommittee of the U.S. House of Representatives Foreign Affairs Committee called on South Africa to end forced removals of black spots.⁸⁴ The West German Embassy denounced forced resettlement as "a particularly repulsive aspect of the apartheid system."⁸⁵ In March the SACC and SACBC submitted "Relocations: The Churches' Report on Forced Removals" to the United Nations. The SACC's call for a day of prayer and fasting for those removed received support both at home and in Norway, Germany, the Netherlands, France, and England.⁸⁶ P W Botha's foreign tour in May and June elicited further adverse comment. British Prime Minister Margaret Thatcher said she abhorred forced removals and read Botha her letter to the KwaNgema

community. Social Democratic leader David Owen said that the removals, while not quite on the scale of the Nazis, were certainly as bad as what the Soviet Union had done.⁸⁷ West German Chancellor Helmut Kohl called for the end of forced removals. Pope John Paul II denounced them as a grave violation of human rights. Italian Prime Minister Bettino Craxi condemned apartheid "and the policies of forced settlement, which clearly violated the charter of the United Nations."⁸⁸ Speaking to reporters in Switzerland, Botha mistakenly said "We do not force people to new homes, we coerce them," and then claimed he meant "convinced them." In South Africa, Bishop Tutu asked whether the demolition of churches, schools, clinics and water supplies in Mogopa helped the people move "voluntarily."⁸⁹ Botha finally seemed to get the message when he told the Cape Nationalist Party Congress in September that people both at home and in the free western world were increasingly sensitive to large-scale removals of people merely because someone wanted them moved.⁹⁰

No sooner were the Magopa "settled" in Pachsdraai than many sought to flee to Bethanie. The Witwatersrand Council of Churches appealed for money for transport, temporary shelter, and food. On 20 February the first truck went to pick up three households. A member of the Magopa committee predicted there would be a fight to get aboard.⁹¹ A *Rand Daily Mail* headline the same day declared "We want out, say Bakwena people."⁹² They feared Jacob More, who had taken all the good land for himself and his supporters. They preferred Bethanie, even though it offered little opportunity for grazing or cultivation, few places in the schools, and subjection to Bophuthatswana.

Three days later the *Rand Daily Mail* ran a longer article, accompanied by pictures, entitled "God will punish those who throw His children around like stones."⁹³ The reporters were forbidden to photograph Jacob More's house, described as "an imposing homestead." The tin shacks offering temporary shelter to some of those removed were suffocatingly hot by mid-day and too small to store personal belongings. There were not enough toilets. The article quoted Ezekiel Pooe, born in 1896, who had lived in Mogopa since 1911 and married and raised five children there.

My children, only God knows why He made it possible for the Government to take us from our land.

But I believe that God will punish those who throw His children around like stones.

They will one day pay heavily for their sins in purgatory and those they had forsaken will be glorified in heaven.

Those removed to Pachsdraai deeply resented the arbitrary rule of Jacob More. One woman sought to "buy" a field from him for R400 but got neither a receipt nor the land. He told Elizabeth Kgatitsoe, who had run the general store in Mogopa, that she would never get a license in Pachsdraai.⁹⁴

III. IN THE WILDERNESS

With the forced removal complete, the pace of events slackened and press coverage diminished. An Afrikaner perspective appeared somewhat belatedly two weeks after the removal, in the form of a report to the Nederduitse Gereformeerde Kerk (Dutch Reformed Church) by Professors J A Heyns and P B van der Watt and Dr P Rousouw, acting "in a personal capacity." They had conducted their investigation in the months between the State President's Order and its execution.⁹⁵ They began with a naive preface.

Influx control and resettlement of people are problems which are not only found in the rest of the world. South Africa often finds itself in the focus of criticism about these two sensitive matters. . . . we hereby give our (unprejudiced) impressions.

But they quickly revealed their prejudices by contrasting the Department of Co-operation and Development estimate that only 120 families had remained at Mogopa in November with the estimate of 300 presented by "the negative press." They also displayed their ignorance by reporting that "the Magopa people hold the mineral rights" (which they had actually sold in 1930). They declared that "the Mogopa land was deproclaimed and made available as white possession," though this had not happened and could not happen. They bought the government line entirely.

[I]t appears to be a tribal quarrel. The whole matter of the removal was discussed and approved during negotiation with chief Jacob More. The only question was to which place, where and when. The state department concerned and the leaders of the tribe travelled to many possible sites. The pros and cons were weighed. No pressure was exerted on them.

Whites had owned the land at Pachsdraai and "had to settle elsewhere" when the government bought that farm. "Many forget that the buying up of such land means that farms which have been owned and cultivated for many generations finally pass out of their hands." "When the tribal chief and his administration had chosen Pachsdraai the greater majority moved to their new home in peace and with enthusiasm by means of the facilities provided by the authorities." There had been conflict between Jacob More and "other pretenders" to the chieftainship.

The moving of the majority of the clan affords the dissatisfied minority the opportunity to remain behind. This reason is glossed over by many. Untrue (false) reasons are mentioned for example that the authorities never discussed the resettlement with them and that they never gave their approval.

The press mischaracterized the struggle as one over land rights. The State President had ordered the Magopa to move "to escape from this dilemma." But as a result of pressure

"grace was granted to them to make arrangements to move to another place of their own choice." The government allowed those who wished to move to Bethanie. "But with this the problem was not yet solved. Truly, it cannot be expected of the government to fully develop two areas simultaneously—and most members of the Bakwena clan already live at Pachsdraai."

Although conditions at Mogopa did not compel the move, "it was difficult to supply the area with services and conveniences—as a result of the fact that it was a black area in a white territory."

The greatest problems were and are (a) schools. The only two schools have long ago been declared inadequate and "unfit for human use"; (b) The nearest clinic is at Ventersdorp, with very small prospects of supplying the area with its own clinic.

Arguments that the Magopa were subjected to "a new form of 'non-violent' compulsion" were false. Houses were bulldozed only after being vacated, and their owners were "fully reimbursed."

"When one compares Mogopa and Pachsdraai it is evident that the resettlement of the Bakwena tribe has numerous advantages." Because both areas were assessed at the same amount (although Pachsdraai is a third larger) "resettlement could be accomplished by barter—and this was approved by chief Jacob More." Transport was free "as opposed to the reports in the foreign press." The amenities are better: "three modern schools with 16 classrooms each," a temporary hostel, a clinic, and a water tap every 250 meters. "Pachsdraai has a much higher potential for further development . . . especially the likely consolidation with Bophuthatswana—which in the long run will be only to the advantage of all, including the Bakwena."

When asked why the majority who moved peacefully were not bound to the graves of their ancestors, the answer was that if they were bound they would still be living in the Free State. . . .

The undersigned found a happy and satisfied community at Pachsdraai. . . . The conditions at Pachsdraai are without doubt more favourable in all respects.

In contrast the impression at Mogopa are completely different. Except for a few good houses the general condition is one of neglect. Water supply is meagre. There is no school. No church buildings was seen. Most disturbing, however, was the attitude of suspicion and rebellious hostility. They also refer to the fact that their important leaders do not reside there but only pay a visit from Johannesburg during week ends.

It is our humble opinion that it would be foolish to force this little group that remained behind to move to Pachsdraai.

The report then reviewed the general rationale for removals—the scheme of grand apartheid. "Let there be no misunderstanding. The undersigned do not give an opinion about the government's policy of homelands and independent states. It is not the task of a church to do so." Having refused to question the morality of removals, they concluded that the only question is how they were conducted.

It is our opinion that here nobody was wronged because this action was undertaken with the greatest caution and acknowledgement of human dignity. All transactions were legal and the necessary provision was made that the removal and reimbursement were undertaken for the good of the community.

At about the same time the student newspaper of the University of the Witwatersrand published a lengthy sympathetic feature on "Mogopa Uprooted."⁹⁶ By then most of those forcibly moved to Pachsdraai on 14 February had fled to Bethanie—some 120 households.⁹⁷

On 11 May the Chief Justice granted leave to appeal, three months too late to save them.⁹⁸ About the same time the *Washington Post* published another report by Allister Sparks, entitled "Uprooted S. African Blacks Defiant."⁹⁹ They had had to pay the cost of moving from Pachsdraai to Bethanie, often expending most of the compensation they received for their houses at Mogopa. They had sold their cattle at a fraction of their worth. They lost their standing crops and could not replant at Bethanie, where they owned no land. Paramount chief Lerethodi Mamogale allowed only 80 families to settle at Bethanie, moving the other 125 to Berseba and Midikwe, eight miles away, and prohibiting joint meetings in his absence. The *Washington Post* accompanied this with a scathing editorial captioned "In Sunny South Africa."¹⁰⁰ The removal was

a typical instance of apartheid in action, part of the whites' giant sorting out of the black population, physically and politically, into tribal "homelands" that, chances are, the blacks have never seen, let alone asked to live in. . . . [Sparks] found evidence at once of the brutalizing effects of apartheid and of the determination of simple people to maintain what dignity is left to them. . . .

The South African government keeps pumping out propaganda saying that life for blacks is getting better and better. Listen to one of the uprooted Mogope [sic] villagers: "They did not discuss with us. They just come. They come in the middle of the night all armed with revolvers. They come and surround your house as though you killed somebody. Then they force you to leave your house without you knowing why, how you must go. They decide how much to pay you without talking to you about it. But you must accept because they already break your house. Then they tell you you must go to Pachsdraai although you tell them you would rather go to Bethanie. They tell you if you want

to go to Bethanie you must fetch your own transport. They must be great cowards to come and surround people when they are all fast asleep to do these things."

At the end of May *City Press* revisited "Parched Pachsdraai—A Haven of Fear."¹⁰¹ Reporter Z B Molefe reported that no one would talk to him without Jacob More's permission. Some gave the party line: "There is also plenty of water available for our cattle as well as for our fields and for home use." In Jacob's absence, however, one old woman said: "If we could return to our homes. This is no place for a person to live." Molefe quoted an article in the *Bophuthatswana Mail* (formerly the *Mafikeng Mail*) in March.

The Mail managed to speak to some families who, making sure that they were not watched, said under their breath: "there is no life here. We do not have agricultural facilities, there is no land to grow crops and there is no grazing for our livestock." When asked by the Mail's reporter why people were leaving, Jacob More said: "I know of no complaints from these people, but I do believe that they have been forced by the Black Sash to vacate the area."

In July *The Star* reported on the financial plight of the 100 families who moved twice—first to Pachsdraai and then to Bethanie—and noted that Juluka was giving a benefit concert for them at Wits Great Hall.¹⁰² The following month, members of the community returned to Mogopa to unveil six tombstones in the old cemetery. The Department of Co-operation and Development had promised shortly after the removal that the graveyard would be excised from the farm and preserved for the community. *The Star* reported that those settled at Bethanie were gradually re-establishing their lives, and some had obtained work in Brits.¹⁰³

With minimum publicity and maximum bureaucratic obfuscation the government sought to neutralize the pending appeal. On 15 January 1985, B H Wilkens, Deputy Minister of Development and Land Affairs, wrote to Cheadle Thompson and Haysom.

Further to my Administrative Secretary's evenly numbered letter of 5 November 1984, I have to advise that the farms Zwartrand and Hartebeestlaagte occupied by the members of the Bakwena Ba Mogopa tribe were registered in the name of the Honourable The Minister of Co-operation and Development, in trust, for the Bakwena ba Mogopa tribe.

The Tribe was moved to compensatory land on portions of the farms Pachsdraai, Rooderand and Doornlaagte defined in proclamation 190 of 1984 and the farms Zwartrand and Hartebeestlaagte were expropriated in terms of section 13 of the Development Trust and Land Act, 1936.

The expropriation notice was dated 23 March 1984 (just a month after the removal), although it apparently was concealed for nearly ten months. (Such private acts are not promulgated. Haysom periodically did a title search, anticipating this tactic, and had discovered the expropriation before the announcement, although he saw no advantage in making it public.) Since the land was held in trust by the Ministry of Co-operation and Development, the expropriation notice was served by one government department on another, not on the community!¹⁰⁴

On 1 February 1985, shortly after the State President offered to free Nelson Mandela if he would renounce violence, Dr Gerrit Viljoen held a press conference for foreign correspondents to announce that the government was suspending all forced removals because it was "sensitive to the general critical attitude towards resettlement." (Viljoen replaced Koornhof, who had gone to Washington as ambassador.) The decision, he claimed, would affect hundreds of thousands, but it would not apply to black communities "if their leaders agreed" (for instance, Magopa) or to illegal squatters. This action showed that "the Government is sensitive to the general critical attitude towards resettlement." His department would investigate 25-30 rural villages threatened with removal and about the same number of townships. The Progressive Federal Party welcomed both initiatives. Black affairs spokesman Ray Swart said: "for the first time one could look to announcements by Government on black affairs with less cynicism and the expectation that something real would be done to improve the lot of blacks."¹⁰⁵

Others were more skeptical, however. Allister Sparks reported that when Viljoen was asked "Does that mean there will be no more Magopas?" he replied: "Oh no. Magopa wasn't a forced removal. It was a negotiation." The article was illustrated with a photo captioned: "Tin toilets litter the thornveld at Waaihoek resettlement area—waiting for what?"¹⁰⁶ Graham Watts noted that Koornhof had given similar assurances, and he also cautioned that Viljoen had excepted "voluntary" removals. In 1983 then Deputy Minister of Development and Land Affairs Hennie van der Walt had responded to criticism from Conservative Party MP Dr Ferdie Hartzenberg. "There are removals and removals, of course. The Honorable Member will agree with me that certain removals are easy to carry out while others are not so easy." He had boasted that 360,000 people had moved to resettlement camps at Onverwacht in the Free State and KwaNdebele in the Eastern Transvaal.

The Honorable Member knows that we had to change our methods. Circumstances forced us to change our methods. Therefore it is not correct to allege now that the government is no longer prepared to remove people. I have just proved that we caused 360 000 to move. We caused them to move. They moved of their own volition. If this is not an achievement, I don't know what is.¹⁰⁷

The *Pretoria News* visited Bethanie on the anniversary of the Magopa removal. Some of the more fortunate were building substantial houses with income from migrant

workers. But the community had been divided physically, and those in Berseba or Modikwe were living in zinc shacks with no possibility of improvement. It concluded ominously: "residents say the old people have died off rapidly in the last year."¹⁰⁸

The government had consistently promised compensation to the Magopa for losses incurred during the move and assets left behind. It stated on 12 April 1984 that R1,208,268 had been paid to 420 families.¹⁰⁹ Those who remained dissatisfied sought representation from Peter Harris of Cheadle, Thompson and Haysom. He and members of the Magopa met with Mr Jacobs (Magistrate and Commissioner of Zeerust) and Mr. Cornelius of the Department of Co-operation, Development and Education in Zeerust on 14 May and 4-5 June 1984, at which point negotiations broke down. Nicholas Haysom prepared a detailed 20-page memorandum on 21 March 1985 as a basis for further negotiations. It listed items left behind and never retrieved, items broken in transit, items damaged or lost at Pachsdraai before the second move to Bethanie, livestock left at Mogopa and Pachsdraai, crops planted at Mogopa before the removal order, and improvements at Mogopa (houses, kraals, and fruit trees). Helen Suzman revived the issue of compensation in Parliament on 23 April 1985 and was again told that R1,222,932 had been paid to 420 families, leaving four claims sub judice.¹¹⁰

In May Deputy Minister of Co-operation Sam de Beer repealed 52 townships containing 545,000 residents and repealed the policy in effect since 1967 of removing all townships within 50 km of a homeland. He acknowledged belatedly: "Removals have a tremendously negative effect on the social structures which have come into being and developed in communities in the course of time. Moreover, removals have recently become extremely politicised, both internally and abroad, entailing problems of threatening disinvestment and boycott campaigns."¹¹¹

In addition to expropriating the land, the government used its political monopoly to forestall judicial review. Toward the end of May 1985 it tabled the "Laws on Co-operation and Development Amendment Bill" to amend the Black Administration Act, 1927, by retroactively foreclosing legal challenges to removals that failed to obtain Parliamentary approval of the new site.¹¹² This bill, which was targetted solely at the Magopa and would cease to have any further effect the moment it was passed, would have mooted the appeal. *The Star* echoed the Black Sash in condemning the bill in both an article and an editorial.¹¹³ PFP MP Nic Olivier called it "utterly unacceptable" and "a ham-handed way of dealing with the issue."¹¹⁴ Nicholas Haysom denounced the bill as "one of the most extraordinary breaches of the rule of law I have ever encountered." He believed the appeal had a "better than 50%" chance of success.¹¹⁵ Lawyers for Human Rights said: "The bill implicitly recognises that the forced removal of the Mogopa was illegal and is seeking retrospectively to validate that atrocity. . . . The South African Parliament is seeking not only to subvert the courts of law, but also to prevent the issue of forced removals from being debated in the enlarged tricameral Parliament." The bill "makes a mockery of Dr Viljoen's undertaking that there will be a moratorium on further removals."¹¹⁶

Three weeks later, however, following discussions in the standing committee, the government dropped the provision. Gerrit Viljoen offered a hypocritical "explanation."

The original clause 9 was not intended to be a statutory amendment but merely a formulation of the existing interpretation of the legal position. The clause was withdrawn because [sic] what was contained therein was the legal interpretation applying at present . . . [in] two Supreme Court judgments. . . .

He referred to the 1977 *Shiawala* [sic] decision and the Magopa decision itself, conveniently ignoring the pending appeal from the latter! The real reasons for the withdrawal were otherwise. Because neither the "Coloured" House of Representatives nor the Indian House of Delegates would pass the bill, whites would have had to bypass them through the President's Council, exposing the 1983 constitutional "reform" as a sham less than two years after it has been launched. The Government also may have been over-confident of winning the appeal.¹¹⁷

The *Weekly Mail* published a feature story on the Magopa in its second number in June.¹¹⁸ The 250 families who fled Pachsdraai were divided between Bethanie, Bethsheba, and Modikwe. Hostility from the Bophuthatswana authorities (to whom they were subject) denied them development aid. They were living on the compensation paid for houses destroyed, which was running out. The local labor bureau would not register them as migrant workers. They had lost most of their cattle. They could not be sharecroppers. Elisha Kgatitsoe eloquently described their plight.

We were taken in the dead of the night by force to a place where the Devil lives. Our way of life was to plough. Now we can't plough. I feel just like Jeremiah. He cried for the people of Jerusalem who were moved to Babylon. Even when we are dead our tears will stay on the face of the earth.

Herman Giliomee, a political scientist at the University of Cape Town, interviewed senior government officials between June and 26 August 1985 about their land policies.¹¹⁹ The National Party apparently was considering opening white agricultural land to black settlement, just as Central Business Districts had been opened to black urban entrepreneurs, although it was not prepared to abolish the Lands Act or the Group Areas Act. The government seemed more concerned with productivity and soil conservation than grand apartheid. But it was very apprehensive that any change would favor the Conservative Party. "One said that if a general election takes place tomorrow the rightwing will win 40 seats in the Transvaal alone." At the same time, the government was under pressure from the Coloured and Indian Houses of Parliament. The declaration of the State of Emergency on 21 July nipped any reform efforts in the bud.

On 26 August 1985 Deputy Minister of Co-operation and Development Ben Wilkens met with leaders of two other communities threatened with removal: Driefontein and KwaNgema. Driefontein had been bought in 1912 by ANC founder Pixley ka I Seme. The fertile land was owned by 250 families, who sublet portions to create a community of 10,000. Their fierce resistance to removal led to the police killing of leader Saul Mkhize in 1982. KwaNgema had been given to Stuurman Ngema more than 80 years earlier for his services to the Boer Republic. Three Boer presidents had guaranteed in writing that he and his descendants could hold the land. Chief Enos Mabuza of KaNgwane refused to cooperate in the removal of KwaNgema's owners to his homeland. By reprieving them, the government formally allowed blacks to remain on land outside a homeland or township for the first time since 1913.¹²⁰

In anticipation of the Appellate Division hearing, *The New York Times* carried a long story entitled "In a Broken Community, Hope Fades."¹²¹ Alan Cowell did a follow-up on Elizabeth Katitswe (Kgatitsoe), a Magopa shopkeeper.

Two years ago, Elizabeth Katitswe used to say things about the authorities that were halfway defiant. But that intimation of protest has gone from her voice and now she seems more inclined to shrug and say, without much hope, that, maybe, one day, things will be better.

Two years ago, Mrs. Katitswe had a home of stone with many rooms, and a store stocked with everything from fly whisks to bicycle bells, yielding much prosperity in a place called Magopa. . . . These days, she lives here [Bethanie] in a home of tin, still a woman of wealth, with a new store built of brick that the authorities will not permit her to operate and feeding the chickens in the meantime laden with nostalgia.

Cowell noted the recent reprieve of Driefontein and KwaNgema. In Bethanie, however, people were building permanent homes, apparently resigned not to return to Mogopa (despite the lawsuit) and determined not to go to Pachsdraai.

The appeal was argued on 29 August and decided on 19 September.¹²² Justice Trengove wrote the opinion (joined by Chief Justice Rabie and Justices Kotze, Botha, and Grosskopf). The central question was whether the requirement of Parliamentary approval was satisfied by resolutions adopted by Parliament eight years earlier (16 May 1975 in the House of Assembly and nine days later in the Senate), recommending the withdrawal of "Bantu tribes" living on the Zwartrand and Hartebeeslaagte farms in Ventersdorp District but specifying no destination. The relevant statutory language read:

The Governor-General may—

(b) whenever he deems it expedient in the general public interest without prior notice to any person concerned order that . . . any tribe . . . shall withdraw from any place to any other place . . . and shall not at any time thereafter . . . return . . . or proceed to any place. . . . Provided that if a tribe which is resident on land referred to in s 25(1) of the

Development Trust and Land Act 18 of 1936 refuses or neglects to withdraw as aforesaid, no such order shall be of any force and effect unless or until a resolution approving the withdrawal has been adopted by both Houses of Parliament.

The Supreme Court had relied on the unreported 1977 *Sihewula* judgment rejecting a challenge to a removal on the ground that Parliamentary "approval" had occurred two years earlier and had not specified the destination.¹²³

The Appellate Division noted that the statute "purports to be an Act for the better control and management of Black Affairs." It characterized the legislation as "a form of social engineering, namely the enforced removal of people (in this instance Blacks) from any area to any other area, and for this purpose it confers some quite extraordinary powers on the State President."¹²⁴

There can be no doubt that the enforcement of such an order may have grave and far-reaching consequences for the tribe concerned, and it may also impinge on the rights of personal liberty of its members. The instant case provides a striking example of the drastic inroads that such an order could make upon a tribe and its members residing on tribal lands. In a case such as this it is, therefore, necessary that the Court should carefully scrutinise the terms of the order issued, and the procedure adopted for its enforcement, in order to ensure strict compliance with the provisions of s 5(1)(b).¹²⁵

The statute required that the tribe be served with an order describing the place to which it was being removed and given an opportunity to decide whether to agree.

They may have perfectly reasonable grounds for being unwilling to move, for example: there may be a lack of accommodation or amenities at the place to which they have to withdraw; the water supply may be inadequate; the agricultural potential of the land or the grazing may be inferior to that of the tribal lands; the place in question may be much further from the places of employment of the members of the tribe; the conditions imposed by the State President may be unacceptable; the compensation offered to the tribe may be considered to be insufficient, and so on.¹²⁶

If the tribe failed to withdraw the order was invalid until approved by resolutions of both Houses of Parliament. "This proviso is obviously intended by the Legislature to provide a check on or curb of the exceptional powers vested in the State President."¹²⁷ The words "withdraw" or "trek" (in Afrikaans) "connote movement from an area to another area."¹²⁸ Parliament had an obligation to review the State President's order only if the tribe failed to comply.

It follows, as a matter of logic and common sense, that the two Houses cannot possibly fulfil their role meaningfully unless they are apprised of the terms of the order and the reasons for the tribe's refusal or neglect to withdraw.¹²⁹

It would be pointless to consult the tribe at all if a *prior* Parliamentary resolution could foreclose its rights. The court then invoked the common (but often ignored) canon of statutory interpretation that when "two meanings can be given to a section, and the one meaning leads to harshness and injustice, while the other does not, the Court will hold that the Legislature rather intended the milder than the harsher meaning."¹³⁰ The court refused to allow the government to raise for the first time contentions that the tribe had not refused to move to Pachsdraai or that the order was directed at only some members, not the entire tribe. It concluded that the lower court had erred in refusing to grant the tribe some interim relief, such as an interdict. Yet its substantive solicitude was for naught.

We have been informed by counsel that, save for the question of costs, the dispute between the parties has become academic because the farms in question have, in the meanwhile, been expropriated by the State and vacated by the appellant and the members of the tribe who supported his application.

Despite this, Marge Brown of the Black Sash welcomed the decision as "one step toward going back."¹³¹ The *Sowetan* used the occasion to rehearse the full inventory of atrocities (even the claim that "the land is rich with diamonds, metals and minerals . . . and ideal for the cultivation of maize").¹³²

In response to the decision, lawyers for the Magopa wrote to Viljoen at the end of September asking for the return of their land.¹³³ Ben Wilkins, Deputy Minister of Land Affairs, replied to Haysom's letter of 15 November.

the frams [sic] Zwartrand and Hartbeeslaagte have been exised [sic] from the released area in terms of Proclamation 190 of 1984 dated 26 October 1984. The farms have been transferred to the Department of Agriculture.

The farms are at present being leased by the Department of Agriculture, who is responsible for the administration of the farms. That Department has been requested not to alienate the farms pending further discussions.

There is no record of the Magopa during 1986. Elsewhere in South Africa, however, the government continued to force blacks off their land. In October 1985 it sought to move 20,000 from Reserve Four, north of Richards Bay, to Ntambana, north of Empangeni, as part of the KwaZulu consolidation.¹³⁴ In November it tried to evict 426 families from Langa to KwaNobuhle on the other side of Uitenhage, as part of the destruction of Langa, with its 50,000 people.¹³⁵ It moved the inhabitants of Leandra

to KwaNdebele.¹³⁶ It continued to seek the incorporation of Moutse into KwaNdebele (see that monograph).¹³⁷ Sometimes the homelands retaliated. In February 1986 Ciskei evicted 7000 residents from Kuni and threatened 10-12,000 in the Potsdam squatter camp.¹³⁸ In March Oukasi continued to resist removal to Lethlabile (see that monograph).¹³⁹ In July, at the behest of Lelyvale, a white suburb of Uitenhage, the government demolished 400 shacks in the Kabah shantytown of KwaNobuhle.¹⁴⁰ Continuing the strategy it had pioneered by incorporating Moutse into KwaNdebele, the government incorporated Leeuwfontein and Braklaagte into Bophuthatwsana and planned to incorporate Machakaneng, Geweerfontein, and Bloedfontein.¹⁴¹ In September the Ciskei evicted another 27 Rala families, dumping them near to the Needs Camp where the Kuni were housed.¹⁴² By that month the government had forced 4800 families to move from Langa to KwaNobuhle.¹⁴³ Another 200 families were forced to move to KwaNobuhle from Despatch.¹⁴⁴ In November the government sought to move 450 of the 1370 families in Red Location in New Brighton, Port Elizabeth, to Motherwell, 20km away.¹⁴⁵ It also planned to move 30,000 residents in East London's Duncan Village to the Ciskei, upgrading the township for middle class blacks.¹⁴⁶ The white Western Cape town of George planned to remove Lawaai kamp.¹⁴⁷

Yet the Abolition of Influx Control Act, passed in mid-1986, not only abolished the pass laws but also repealed section 5 of the Black Administration Act and section 29 of the Blacks (Urban Areas) Act, the legal authority for forced removals.¹⁴⁸

At the end of the year the Magopa re-emerged in public view. On 26 November Gerrit Viljoen restated the government's position in reply to a letter from Haysom to the Deputy Minister of Development and Land Affairs four months earlier (23 July 1986). He began by challenging the standing of what he referred to as a "dissident faction" led by Shadrack More, Matthews Kgatitsoe, and George Rampau. Shadrack More had "aspired to leadership for a considerable time, but was unsuccessful." The 1982 Commission of Enquiry found that complaints against Jacob More "were unfounded." The "dissident minority" had refused to attend meetings at which the tribe "by consensus agreed to move to Pachsdraai." "Unilateral acts by a dissident faction cannot found *locus standi*" "The Kgoros of the tribe have at all times chosen headmen according to custom." The removal was voluntary. "As early as 1964 the tribe resolved to move to a more suitable area." The first choice was Pilanesberg, which became unsuitable when the available area was reduced. Other sites were considered. On 15 February 1982 Shadrack More and others objected to Pachsdraai. The tribe, however, agreed to inspect that land and subsequently accepted it. The "minority dissident members" boycotted subsequent meetings. "Your clients, as dissident individuals who were conducting a boycott action were nevertheless bound by the agreements reached and decisions made."

"The voluntary move by the tribe was completed without problems." The dissident minority welcomed strangers onto the land. Because "the tribe" had already moved, the State President's Order of 18 November was directed not at the tribe but at "dissident individuals." "The dissident individuals, members of the tribe eligible to vote

as well as non-voting members and strangers, were forcibly moved during February 1984."

Viljoen maintained the validity of the Presidential Order despite the Appellate Division's judgment. It had merely overruled a 1977 Supreme Court decision, not the ruling below(!) Viljoen sought to reopen factual issues the AD had held were closed by the state's failure to argue them at trial. Thus, he insisted that the Presidential Order was directed to individuals, not the tribe, and therefore did not require Parliamentary approval if those individuals resisted.

The dissidents' contention that they had no part in choosing compensatory land was "not entirely correct." They were given every opportunity to inspect Pachsdraai. If they "refused to investigate or to participate in the tribal decision making process they have only themselves to blame." The expropriation notice was valid under the Act.

Haysom's clients "do not have any legal interest in the Magopa farms" and therefore "no right to return to the said farms." They can, of course, seek to return to Pachsdraai. Viljoen concluded by acknowledging that "discussion is obviously advisable in order to attempt elimination of prolonged confrontation" but urged Haysom to clarify "the factual situation" first.

Haysom replied in a 35-page letter on 2 December. He welcomed the opportunity to correct factual errors. The group he represented were "the clear majority of the tribe"—some 60-70 percent. Since the Department itself admitted that only 170 families had moved by August 1983 and compensation had been paid to 420 families, at least 250 families had been forced to move. Haysom had retainers from 249 families at Bethanie "who are now preparing to return to Magopa." "The suggestion that the numbers of persons at Magopa had been swollen by strangers is both false and improbable. It is hard to imagine why strangers would choose to live in an area which had been destined for forcible removal and which had had its churches, transport facilities and schools demolished and its water supply disrupted."

"At the outset it is necessary to stress that my clients are not militant radicals, dissident boycotters or the like. They are conservative, rural, mostly elderly folk." Shadrack More "never aspired to leadership but has had it thrust upon him." The tribe's decision to depose Jacob More reflected their belief that he had mishandled tribal money; the Commission of Enquiry's refusal to publish its findings and Jacob More's refusal to open his books confirmed their fears. It was he who would not attend their meetings. The tribe explicitly refused to move to Pachsdraai; Jacob More and his "Planning Committee" did not represent the tribe's wishes. Their meetings were secret and closed to the tribe. Jacob More and the "Planning Committee" agreed to the removal for selfish motives—to acquire the best land and houses.

Haysom was pleased "that the forcible nature of the removal of 28 [sic] February 1984 is acknowledged, as in the past officials have sought to argue that this removal

was also a 'voluntary removal.' He deplored the fact that the Department had refused to await the outcome of the appeal and had sought to preempt that decision by introducing retroactive legislation. At the time of removal, the tribe believed it was still engaged in negotiations with Dr Koornhof. After the removal the Department dragged its feet in paying compensation. Expropriation of Mogopa occurred without notice to the tribe. Jacob More could not consent to the expropriation (or accept Pachsdraai as compensation) because he was not an agent. In any case, the law "expressly forbids a chief from alienating his tribe's property without the consent of the adult members of the tribe (Section 3 of the Black Administration Act)." Leading expropriation attorneys had advised that it was a breach of fiduciary relationship for the Minister to act as trustee while expropriating the land.

Haysom vehemently dismissed the government's factitious arguments that he represented "a mere collection of sundry individuals" who lacked legal standing. He also refuted the claim that the Appellate Division had not invalidated the Presidential Order. He noted that the government had since repealed the statutory authority on which the Order claimed to rest.

Now that the government has chosen to abandon the use of this power we believe that the situation demands a more generous and creative approach to the position of our clients, who were the last people moved in terms of this procedure. . . .

[M]y clients are now in a desperate situation. They believe with deep conviction that they have been wrongfully treated, that they have a right to return to Magopa, and that nothing can compensate for the hardships they have suffered. Notwithstanding our pleas for patience, our clients intend to return to Magopa by the new year. They had decided to return on 28 November 1986 but delayed their plans when we received your letter. I have attempted to draw your attention to the seriousness of the issue for over a year without meaningful response.

This exchange of letters apparently led to a meeting between the community and Hendrik Temple, Deputy Minister of Development Aid, on 5 December. He urged that they "let the past be forgotten and let us look forward." He could see that neither Bethanie nor Pachsdraai was satisfactory. The tribe could not return to Mogopa, but the Department would offer other land.¹⁴⁹ Haysom replied on 18 December that the proposal had to be "significantly attractive and concrete" before the community would consider it seriously and suggested (without his clients' authorization) that they be allowed to return to just one of their farms at Mogopa. Temple responded on 2 February 1987 that this was "unfortunately not possible." Furthermore, the tribe's request for "the security of tenure that they had at Mogopa"(!) would have to be negotiated with the Bophuthatswana government *after* the tribe accepted the land offered. They would not receive title, and the land would be incorporated into Bophuthatswana. Since President Lucas Mangope had denounced the Magopa for defying him and warned they would end up at Pachsdraai, this was unacceptable.¹⁵⁰

Negotiations broke down after the Magopa visited one of these alternative sites on 20 March.

IV. THE SEARCH FOR ANOTHER HOME

Aided by Trac, the Magopa turned to the South African Council of Churches, which offered to buy other land for them. The SACC created the Botshabelo Trust ["place of refuge"], which raised R2.8 million to buy Holgat, near Coligny, from the Hermansburg Mission of the Lutheran Church. Since this was "released" land in terms of the 1913 Land Act black residence was legal. The farm was to be shared among some 3000 people: 270 Magopa families, 35 Machavie families (who had been removed from their land near Potchefstroom in 1971 and spent 16 years in "temporary" accommodation in Rooigrond, Bophuthatswana), and 20 families previously employed at Holgat. After the first installment of R2 million had been paid, the deed of sale signed, and title was about to be registered in anticipation of the move, the government acted. It expropriated the land on 7 July.¹⁵¹

The Magopa responded with a statement issued at the workshop that was to have arranged the move to Holgat.¹⁵²

All our plans have been destroyed by a letter from the government. Our first aim is to undo the expropriation. If that fails, each group must struggle forward according to its means, and to its history. But we must never forget each other and we must look for a solution to our problems that satisfies all of us and not just one group. We must not be divided now.

We believe that the government's reason for expropriating the farm was to defeat our plans for the future. However, we will go on struggling for land and for a future for our children and our grand-children. We tried to achieve our just aims in a peaceful way by buying a new farm. The government has now closed this door of peaceful action, as it has closed all the other doors we tried to use.

Now we have no choice but to go and claim our own farms. We know that the government will treat us as criminals for this whereas we are just South Africans fighting for our birthright.

We believe that all our suffering has been caused by the way in which the government treats black people, as though we are not people but animals to be herded around or birds that can live in the sky with no home on earth.

Yet we know that in the eyes of God all human beings have rights. We will never give up our efforts to realise our right to live decent lives.

They reiterated this position at a press conference on 29 July. Using apocalyptic language Lucas Kgatitsoe, the spokesman on that occasion, said the Magopa saw themselves as "missionaries appointed by God" to obtain "our rights to our fatherland . . . our birth land." "We have reached the end of our tether. We are in a very desperate situation. If you had suffered as we have, you would understand why we are embarking on this suicidal course."

The expropriation of Holgat means our last place of refuge has been removed. We had a peaceful community. We had our land taken away. We tried all legal avenues to resist this forced removal. It all came to nil. Now we have reached a point of no return. There is no way people can live under the present circumstances. Our people have no resources, no way to live. They can't live the life they lived previously as a pastoral nation. They have no rights. The parents have no pensions, the youngsters can't get jobs. There's just one fine mess been created. Home is the best place on earth. Therefore, we would rather die.

In Bethanie, women worked for R3 a day clearing stones out of cornfields. They waited three hours and paid R2 to obtain water—or walked 3 km to drink out of the river and get sick.

He sketched a scenario in which 300 trucks would transport 2000 unarmed people accompanied by church officials, diplomats, and white students, expecting to confront armed security forces and conservative white farmers. The urban committee set 12 September as the date to return. Several newspapers reported this threat.¹⁵³ The government responded: "If the Mogopa people go back to their farms, they are exposing themselves to prosecution." Soon thereafter residents reported that strangers were making inquiries about the proposed return, and those who had planned to move to Holgat were being denied water.¹⁵⁴

The same day PFP MP Peter Soal denounced the government for behaving "in a really sordid manner towards the people of Magopa over the years, and one can only assume that because they won an action in the Supreme Court, the Government is punishing them by not allowing them to settle on the land of their choice and is hounding them to become citizens of Bophuthatswana, a citizenship they do not desire and refuse to accept."¹⁵⁵ Viljoen defended his action on the ground that the DET needed the farm for a school and "we do not find acceptable the concept . . . of reintroducing a Black settlement area in that vicinity. This would be contrary to the policy that has been carried out in the past."¹⁵⁶

Press response to this second expropriation was predictably vitriolic. *The Star* front-page story was headlined: "Govt grabs land from evicted group: Expropriation dashes hopes of refuge"; a companion article proclaimed: "Mogopa: uprooted but still undefeated."¹⁵⁷ Two weeks later *The Star* asked "Can Mogopa rise from ashes of resettlement?"¹⁵⁸ The *New Nation* reported "Defiance is the only option—Mogopa."¹⁵⁹ *Newsday* (Long Island and New York) published a long illustrated feature story on the "Tribe Fighting to Get Its Home Back."¹⁶⁰

Dr Viljoen waited a month before seeking to justify his actions.¹⁶¹

The Department of Education and Training has no intention to review the expropriation of the farm Holgat.

The Department of Education and Training requires the farm with a view to the development of the Bethel Secondary School at Holgat into a full-blown agricultural school. Holgat, which belongs to the Hermannsburg Mission, has been the home of this school for many years.

The existing buildings of the Bethel Secondary School as well as the hostels are being regarded as the nucleus for the further development of the farm for educational purposes. Security of tenure as well as unhindered and free access to this nucleus are essential. Therefore the entire farm needs to be at the disposal of the Department of Education and Training.

The Government is not in favour of the establishment of a black community such as the Magopas in an area which has not been earmarked for this purpose and which does not form part of the Government's consolidation programme. A trust was negotiating to buy the farm Holgat from the Hermannsburg Mission in order to settle dissatisfied elements of the Magopa community there which refused to settle at Pachsdraai where the major element of the tribe has settled.

The Department of Development Aid has indeed offered an alternative settlement area for the dissatisfied Magopas. Negotiations in this regard are still continuing and would perhaps be facilitated if funds are available for the acquisition and development of suitable land on behalf of the Magopas.

Viljoen followed this up with a letter to Haysom (received 6 August) responding to his telex of 24 July, affirming that "it is unfortunately not possible to reconsider the decision that the farm be expropriated. . . . Discussion of the matter will, under the circumstances, serve no purpose."

Few accepted the government's explanation. Some believed it had capitulated to local white farmers, who had elected a Conservative Party MP.¹⁶² The Black Sash and Trac contested the government's claims.¹⁶³ The Botshabelo Trust did not buy that portion of the Hermannsburg Mission on which the Bethel Mission School was situated. The Holgat farm had been on the market for three years, but the government had never been interested. Contrary to the notice of expropriation, there was no "urgency."

On 23 August, 200 old people living in Bethanie agreed with the urban committee. A spokesman said: "We don't have power with guns. All we have is the right that the land belongs to us. We need to make the powers know that the land belongs to us and we have a right to go back to it." An elderly woman added: "We've got our 'gun', which is Christ. He is more powerful than an ordinary gun." The Five Freedoms Forum held a meeting two days later to publicize the plight and desperation of the Magopa.¹⁶⁴

Perhaps fearful that the Magopa would carry out their threat to return to Zwartkop, creating a confrontation and possible violence, Viljoen sought to reopen negotiations over alternatives in a telex to Haysom on 27 August. He again offered the same site (land adjacent to Bophuthatswana) but this time indicated that the government was negotiating with the homeland to try to meet Magopa demands that they obtain full title to the land and retain their South African citizenship. He also expressed willingness to explore the sites proposed by the Magopa, hinting broadly that this "could of course be facilitated should funds be available for purchasing such land." Haysom replied by telex on 1 September, seeking to capitalize on this flexibility even though he had not yet consulted his clients. He rejected one proposed site because the tribe's "commitment to Magopa, the situation of the 'alternative' land, and the history of negotiations have led to suspicion and a hardening of attitudes in regard thereto." Haysom read the end of Viljoen's telex as reopening the possibility of Holgat and strongly urged this alternative. He warned, however, "that unless flexibility is introduced the parties will maintain their current positions. My clients appear disillusioned with the fruitfulness of the negotiations to date and the offer in your telex may appear to my clients as a restatement of the current position." Viljoen telexed back the next day to disabuse Haysom of any hope for Holgat but indicated his willingness to meet with the Magopa on Saturday, 5 September, to discuss alternative locations.

The negotiations lasted more than four hours. The Magopa delegation contained 14 people, headed by Lucas Kgatitsoe and advised by Haysom and Aninka Claassens. The Government was represented by Viljoen and eight other civil servants. Viljoen began by reviewing the proposal of Kafferskraal/Potgietershoogte and Rooiwal, next to the land they presently occupied at Bethanie. Fearing incorporation into Bophuthatswana, the tribe preferred Mathopestad and Matlatla. Viljoen ruled out the first because the government would only consider land already designated for black settlement. In order to reassure the tribe about incorporation into Bophuthatswana he pointed out that Oukasie residents had been removed to Lethlabile, which also bordered the homeland, but had not been incorporated.

Lukas Kgatitsoe explained that his committee wanted to negotiate with the government but was being pressured by the community to refuse land next to Bophuthatswana. Haysom warned that the community was determined to return to Mogopa and might well do so unless the government made a sufficiently attractive offer. Viljoen warned that such a move would "politicize the situation and there will be conflict." Several community representatives stressed that life at Bethanie had long been intolerable. Paul Kgatitsoe asked that they be allowed to return to Mogopa temporarily. Viljoen ruled this out but proposed other temporary locations: the farm Boshhoek near Boekenhoutfontein and the Vaalkop Dam area.

After a recess the elderly members of the delegation were introduced and spoke passionately. Ishmael Maphafore said the people were desperate and anxious to go to Magopa. The children lacked schools, the elderly were dying. Ephraim Poee agreed. Aninka Claassens again proposed the alternatives of Mogopa and Mathopestad. She

noted that Black spots had been preserved and developed in the Eastern Transvaal. Blacks and whites had lived peacefully at Mogopa for years, even though one of their neighbors was Andries Terblanche, brother of AWB leader Eugene. Viljoen promised to propose alternative land to the government and obtain a firm decision by the end of November. Ephraim Pooe said the community could not wait that long. Viljoen offered a temporary move pending a permanent solution but insisted "that when a final arrangement has been reached and the people are again moved, it should not be said to be a forced removal." He offered Potgietershoogte/Kafferskraal or Onderstepoort as temporary locations. After a recess, Haysom said the committee had to consult the community on Sunday and would respond on Monday, 7 September. Haysom then asked how the government would react if, instead, the community moved to Mogopa on 12 September. Viljoen replied that "such a move would lead to confrontation and that it would bedevil ways and means to find a workable solution for the problem."

The *Sunday Times* reported the parties' joint press release as the addendum to a feature story recounting their travails.¹⁶⁵ The Magopa reiterated their threat to return. Committee member Henry More declared: "We have no choice. Our people are dying in the wilderness. Like the Israelites of old, it is time to return to the promised land." The paper described the "ruins and rubble" and the overgrown cemetery, again quoting Henry More: "We do our best, but it is difficult because we are now so far away." Speaking of the impending return, Lucas Kgatitsoe explained: "This is not a suicide mission, we are just going home."

Haysom telexed Viljoen on 7 September to record the meeting. The previous day he had consulted the Magopa at Bersheba and Bethanie about the proposals. They understood that the Government would buy land in South Africa and give them freehold title. The land would never be incorporated into a homeland. The government had proposed two areas the tribe would consider: Boshoeck and Vaalkop Dam. The tribe, in turn, proposed Mathopestad and Ventersdorp. The government would respond to the tribe's proposal by the end of November. Because conditions at Bethanie were intolerable, the Government would resettle the tribe temporarily at Onderstepoort, providing water, toilets, Fletcraft housing, a bus service to the nearest town, and a primary school and teachers, and it would continue to pay pensions (and make up back payments). It would transport the community on 12 September. Viljoen telexed back the same day, accepting the substance of the agreement but insisting that the Magopa explicitly acknowledge that the resettlement at Onderstepoort was "voluntary." In order to facilitate negotiations, he urged that possible permanent sites be kept secret. He concluded: "I am gratified that the community has accepted my proposals and I look forward to their expeditious implementation." Haysom later recollected that the Magopa had agreed because the community was fragmenting and the level of social dislocation had become intolerable.

A press release issued that day confirmed the understanding.¹⁶⁶ PFP MP Peter Soal commended the government for seeking to negotiate a solution but deplored the tragedy that it had waited so long and described the offer as a "pill [that] had been

sweetened" because the government had "cheated" the Magopa of their land.¹⁶⁷ The National Committee Against Removals denounced the government's earlier actions against the Magopa as "one of the most serious indictments of the forced removal policy in the last 10 years" but saw the present offer as a "sign of hope."¹⁶⁸ A *Cape Times* editorial congratulated the government on its "commonsense" in exploring "mutually acceptable solutions," adding that it "set a healthy precedent which could be applied elsewhere in the country with advantage. What about District Six, for example?"¹⁶⁹ Calling the original removal "thoroughly distasteful," *The Argus* applauded the government's application of "more common sense and less ideology."¹⁷⁰ The Black Sash attributed the outcome to "dogged and determined resistance by a community that refused to give up in the face of official coercion and breathtaking cynicism." "The Mogopa saga will go down in history as an apartheid classic—and as proof that organised resistance can achieve results." It warned, however, that the people "have been disappointed and betrayed too often before."¹⁷¹

On 10 September state trucks began to transport the 2000 people from Bethanie to Onderstepoort.¹⁷² *The Star* headlined "Mogopa on the move again."¹⁷³ It emphasized the temporary nature of the "three-month stay." Some Magopa saw the compromise as a victory avoiding a violent confrontation, others as defeat. The government's eagerness to reduce tensions was visible in the provision of hundreds of tents and truckloads of prefabricated huts. The Department of Development Aid promised health services, schools, and small businesses. The site, ironically, originally had been designed for the Mathopestad people, who had successfully resisted removal six years earlier. Although the Magopa were relieved to be out of Bophuthatswana, the repeated moves and impermanence made them very unhappy.¹⁷⁴

Because Haysom went abroad on extended leave, Geoffrey Budlender of the Legal Resources Centre temporarily represented the Magopa. He telexed Viljoen on 29 September that he would have the community's proposals ready shortly and sent them on 5 October.¹⁷⁵ Viljoen responded the same day with the requested reassurance that the status of the land in question would not be changed until the negotiations were completed. The Magopa sought at least 3930 hectares of land in the maize triangle, not adjacent to Bophuthatswana. Mogopa had the advantage of proximity to Motlata, Mathopestad, and Ventersdorp township, allowing the government to service all four efficiently. White neighbors, some active in the Conservative and Nationalist Parties, would welcome their return. The situation was unique. "To return Mogopa to its original owners would be a gesture of good faith rather than a material concession. Mogopa is the only community with a Supreme Court judgment in its favour. In this context, the return of the Mogopa community can be explained as respect for the rule of law rather than as the beginning of a new trend."¹⁷⁶

Although the government had categorically ruled out a return to Mogopa, *The Star* published an article headlined "Businessmen will welcome return of Mogopa community."¹⁷⁷ Chris Botha, the outgoing local organizer of the Rural Foundation (a farmers' self-help group), said "I can't see that there would be problems because there

was never any animosity between them and the farmers. Every person has a right to a place in the sun—where he can raise his children and have his church." Because two-thirds of the clients of the Ventersdorp funeral parlor had been black, proprietor J M du Plessis said his business had declined significantly. The owner of the largest store in the Indian shopping center agreed that "the town would come to benefit from the population increase." Farmers were more cautious, but none expressed strong opposition to a return.

The Magopa and their representatives (Budlender and Claassens) met with Viljoen and five other officials in Pretoria on Saturday, 28 November.¹⁷⁸ The full Cabinet had rejected all the tribe's proposals: Mogopa and state land adjoining Mogopa or Mathopestad. Government policy did not allow blacks to return to areas designated for white settlement. Were it allowed here, other black communities who had been removed would make similar demands: the Magopa who moved to Pachsdraai, the Bakwena Ba Moletshane who lived on the adjoining state land, and the Bakubung and Monnakgotla who lived at Mathopestad. The government therefore emphasized its own proposals: Vaalkop Dam, Boshhoek, and Onderstepoort. Because it understood the strong emotional attachment to the graves at Mogopa it offered to excise the cemetery, which would remain state land when the rest was sold to whites.

After the Magopa caucused Lucas Kgatitsoe spoke for them. The community would never accept land adjoining Bophuthatswana. They understood that those displaced from Mathopestad would resent it if the Magopa got their land. That is why they sought to return to Zwartrand. They would welcome those at Pachsdraai who wished to join them. The Magopa removal was unique because they had won their case in the Appellate Division. Furthermore, the government had since changed its policy and reprieved other communities. The Magopa needed land in the maize triangle, where they could become self-sufficient within six months. Elsewhere they would need extensive training. The land adjoining Bophuthatswana was bushveld, unsuitable for farming. The Magopa were South Africans, taxpayers, part of the government. Their Mogopa neighbors favored their return. The Magopa provided labor to neighboring farms and bought and sold cattle.

Viljoen stressed the government's good faith in the face of political realities. The government's supporters would not tolerate the return of blacks to white communities. The result might be the election of a Conservative government committed to incorporating more black areas into the homelands. If land in the maize triangle were unavailable the government would help train the Magopa in new farming techniques; perhaps the Botshabelo Trust could contribute.

The discussion then became general. Ephraim Pooe invoked the hereditary rights of black people; future generations would consider them weaklings if they failed to insist on returning to Mogopa. Viljoen acknowledged the community's long record of determined resistance; it had rejected what the government regarded as the majority decision. Matthews Kgatitsoe immediately denied that those who left were a majority.

Viljoen refused to argue; what was past was past. The first prize was not available to the Magopa; they should try for the second. Matthews Kgatitsoe stressed the importance of the maize triangle, insisting that his people would not accept land adjacent to Bophuthatswana. Without conceding the Magopa's inability to change their agricultural practices Viljoen expressed willingness to look further for acceptable land. Aninka Claassens and Viljoen then argued over whether the Botshabelo Trust funds intended for the purchase of land could be used for development purposes. Claassens stressed that only the Magopa claims were backed by the judiciary; furthermore, Professor Olivier of Potchefstroom had advised the tribe that they could seek a spoliation order. Viljoen conceded the importance of the judicial decision, which he used to argue with the Cabinet, but returned to the political constraints. However, he seemed willing to reconsider the Magopa proposals. Claassens asked if the views of white Ventersdorp farmers would be relevant. Viljoen was prepared to hear them but warned that it would take time and the government had received "very strong representations" from the other side. This was not the moment to test white opinion because there was a by-election in nearby Schweizer-Reineke. Budlender raised the fear that the government might reintroduce legislation authorizing homelands to administer black communities within South Africa. Viljoen offered a written undertaking that this would never happen to the Magopa. But, said Lucas Kgatitsoe, such an undertaking could be retracted by the stroke of a pen. Viljoen promised the backing of the entire Cabinet but warned that a Conservative government could repudiate it. Furthermore, a unilateral return to Mogopa could cost him his place in the Cabinet.

After caucusing again the Magopa restated their understanding—they could not return to Mogopa but could negotiate further—and said they needed to report to the community. Viljoen praised their responsible behavior but could not meet for two months. He was eager to assist with other problems: back pensions, identity cards, soccer fields, and flood water.

During 1987 the government continued to use force to move blacks, invoking the exceptions for "voluntary" removals and illegal squatters. It proceeded against more than 2000 in Lawaaiikamp outside George, claiming they were a health hazard.¹⁷⁹ It "persuaded" families to move from Machadadorp in Eastern Transvaal to Erthonjeni township.¹⁸⁰ Police and white officials destroyed houses in the Bloekombos squatter camp near Kraaifontein.¹⁸¹ The South African government helped Ciskei remove the village of Tyutyu, which had been surrounded by Bisho.¹⁸² It threatened squatters on the outskirts of Kathlehong.¹⁸³ It threatened 1200 farmworkers in Weenen, Vryheid, Hlobane and Richmond districts of Natal.¹⁸⁴ Sun International sought to evict 5000 from the site of its latest hotel at Nooitgedacht Dam.¹⁸⁵ It threatened 400 squatters at Welbedacht, near Chatsworth.¹⁸⁶ Although two Lawaaiikamp residents won a Cape Supreme Court decision defending their right to remain and ordering George to rebuild their homes, the municipality reiterated its determination to expel them.¹⁸⁷ Some 6000 squatters at Weiler's Farm were threatened with eviction after the Transvaal Provincial Administration expropriated it in response to right-wing pressure.¹⁸⁸ Soweto Town Council police began destroying shacks of Chicken Farm squatters.¹⁸⁹ The government

destroyed Bloekombos squatters camp near Kraaifontein, outside Cape Town, moving the approximately 100 people to Khayelitsha.¹⁹⁰ White municipalities in the PWV area were destroying squatter settlements and prosecuting residents for trespass.¹⁹¹ The government removed 600 people from Noordhoek in Western Cape to Khayelitsha.¹⁹²

In 1988 the community continued to consider land proposed by the government. A memorandum on stationery of the "Bakwena Ba Mogopa Tribal Authority, Ventersdorp District, Chairman: M.M. Kgatitsoe, Secretary: L.N. Kgatitsoe" records a visit to Geysdorp and Setlagole on 22 January 1988.

We have been shown Geysdorp Farm first, which is about 2,000 hectares. The farm is next to Bop boundaries. This areas are at the far Western Transvaal, next to cape province. The soil at that area is all sandy soil. We dig about two inch deep than we get a laying stone under neath which is called in Afrikaans (kwarrie klip). So is not place you can plant or farm. So far as the comunittee have see the place Geysdorp as whole the comunittee were very unsatisfied, plus the distance from eastrand for specialty workers is very far. The farm is already plough and people we found them there were still busy planting that very same day. We were there 22/01/88. There is still a village along it. We ask the men Mr Boshoff about that village, he says he dont know that village name. This men Boshoff he's the one who looks for the government's trusts at the Western Transvaal; he is the men who had explain about the farm. he show us blue come plantations trees along the tar road in that farm. We were with Mr Schalkwyk, Mr Stofel and Mr Olivier. They mentioned to us that the farm have list by the Bop Govenment. We then go to the second farm at Setlagole we take Stella road far west of Mafikeng more or over 75 km to Mafikeng; they still show us the farm there we just stand along the road and they show us the white farmers place were is stil planting maize. They said if we like the place we can wait until harvest (if we like the place) is all that have amazing the comunittee; of been still shown some peoples place. So we make the arregements with the Ministers Officials. Mr van Schalkwyk agree that on the 29/01/88 we will go and who them where we fill to be a home. They will give us two buses for that journey. They also show us a place in Geysdorp Farm were we can build our village. Mr Boshoff tell Matthews that your boundaries go like this as if we agree to stay in the place because we have drive through the middle of that farm. But the only bad of the journey we take's 24 hours journey, from 4.00 oclock Friday morning to 4.00 oclock Saterdag morning to Ondersterpoort. We go through Madibogo Village which is 10 km from Geysdorp were they show us the farm (Madibogo area along Setlagolo) that's still have white farmers.

Budlender wrote Viljoen on 9 February, noting that the Magopa had seriously considered the government's six proposals. Officials had not allowed them to see Vaalkop Dam and Boshhoek, however, for fear of upsetting the white farmers. The view from the road was hardly sufficient. If the government really wished the Magopa to consider these farms, they needed detailed information on location, size, and farming conditions and eventually would have to visit them. He stressed the urgency of resolving the matter. Budlender wrote again on 17 February, following discussions with his clients, who accepted Viljoen's offer to meet and wanted to set the date.¹⁹³

Several newspapers commemorated the fourth anniversary of the removal. *The Star* deplored that "Mogopa people still in limbo."¹⁹⁴ *The Sowetan* was more explicit: "My People Want to Return Home." Hundreds heard 90-year-old Isaac More reiterate their determination. "My people will do anything to show the Government they want to return home and go away from this baboon-infested and arid piece of land." About 60 men had just accepted work with Cecil Allum, a white Ventersdorp farmer, leaving Onderstepoort at 5 am and working until 6 pm—for R3/day.¹⁹⁵

Viljoen responded on 23 February, offering to provide the information requested, arrange visits to the two farms, and schedule a meeting. A telex reiterated this on 12 April. Budlender telexed back on 22 April, deploring the continued delays. Winter was approaching. Only six people had been invited to inspect Boshhoek, necessitating a further visit. No arrangements had been made to inspect Vaalkop Dam. They still lacked the information requested on 9 February.

Viljoen finally arranged for the Magopa to visit the two remaining farms on 18 May and provided some of the information requested the next day. Claassens described that visit in a letter to Budlender on 20 May. She and David Cooper had accompanied the community to Boshhoek and Vaalkop Dam.

Neither farm is suitable for the Mogopa people. Andre van Schalkwyk and Peter Olivier were there as well as local officials from the Hartebeesfontein resettlement camp. The local officials told fairly flabbergasting lies. They said that there had never been any intention of incorporating Hartebeesfontein and Vaalkop into Bophuthatswana. However the area is marked as already part of Bophuthatswana on an ordinary road map. They said that there is an irrigation scheme on Boshhoek which never runs dry—whereas the river that is meant to supply it, is dry now. They then said that this river was a tributary stream and not the river. However it was clearly marked as the Heks river [and] when we pointed this out, they laughed and said their job was just to show us the land and we could discuss complaints with the Minister. van Schalkwyk kept himself apart from all of this, but did look pretty uncomfortable.

The site was near Kafferskraal, opposite Bethanie; the Magopa would not even get out of the kombi to look at the land. Furthermore, the 2000 hectares of bushveld the government was offering was in no way equivalent to Mogopa, since arable land was worth six times as much as pastoral. None of the four white owners of Boshhoek bothered to farm it.

Aninka Claassens reviewed the situation in preparation for meeting the Magopa about this time. The government proposals of Delareyville, Geysdorp and Madibogo were unacceptable. Other removed communities already had rejected them because of poor farming conditions and the distance labor migrants would have to travel. The white farmers at Vaalkop Dam and Boshhoek were so hostile that government officials would not even let the community get off the bus to see the farms.

Viljoen and other officials met the Magopa and their representatives on 2 July.¹⁹⁶ Matthews Kgatitsoe asked Ephraim Pooe to say a prayer. Matthews explained that the leaders had tried their best to persuade the community to look at the land offered but the government had not reciprocated: its officials seemed reluctant to look at the land proposed by the community. The day they had been promised transport (29 January) the buses never appeared. The government proposals were very disappointing: the land had not been ploughed for 20 years; trees would have to be dug out; the fields were too small; and the soil was hard. It was thorny bushveld, good enough for cattle, goats and donkeys, perhaps, but not for sheep. The Magopa were peasants who depended on agriculture. Abraham Mabilikane agreed. At Mogopa he had used his own cattle to plough, producing a surplus he sold to the cooperative. Mogopa had good absorption and underground water. Daniel Molefe echoed their dissatisfaction. The land around Rustenberg had tough clay soil, impossible to plough. The adjacent fields at Onderstepoort were unused; their neighbors said they could not plough. With six donkeys he could plant a crop at Mogopa even this late in the season. The Ledig people had told Hofney Thibeki that they did not plough because the baboons ate the crops and the ants ate the roots. The black workers at a neighboring farm said the white owner had tried and failed to shoot the baboons and was now in Kristenberg selling cattle. Johannes More said he had not been shown any arable land since he left Mogopa in 1984; the land offered was dry, water ran off quickly. He was too old to dig up trees in bushveld.

Viljoen interrupted to say that the comments had become repetitive. At the request of Matthews Kgatitsoe, David Molefe described a consultation with an agricultural expert (David Cooper), which showed the inadequacy of the government proposals. Viljoen welcomed the seriousness with which the community had studied his suggestions and took their criticisms just as seriously. Officials had not accompanied them to visit Mogopa and Mathopestad because the government had categorically rejected those sites. The community could not expect land comparable to Mogopa. It would have to change its mode of farming. He conceded that Ventersdorp businessmen and farmers would accept, and even welcome, the return of the Magopa. But there still

were political difficulties, including the resentment of other communities that had been removed.

Matthews Kgatitsoe sought to distinguish Magopa: it had been removed in the dead of night, whereas other communities had negotiated their removal and signed an agreement. There was further discord about past events, the kind of land being considered, and how it would be selected. The Magopa persisted in rejecting bushveld (which would require irrigation and different crops), insisting on high veld, where they could grow maize. He stressed the urgency of the situation: 12 people had died at Onderstepoort because of the heat and dissatisfaction. He refused to contemplate permanent residence there. Viljoen took the matter under advisement but reiterated the need for younger Magopa farmers to contemplate change. The meeting concluded with a request that Viljoen get Bophuthatswana to stop harassing the Magopa and respond in less than three months.

V. ENTRY TO THE PROMISED LAND

Perhaps despairing that these negotiations would ever produce acceptable land, the Magopa appear to have adopted a new tactic in their struggle. A letter from A J van Schalkwyk, Director General of Development Aid, to the Town Manager of Hartebeesfontein on 24 August 1988 confirmed the ruling of the former Deputy Minister of Development Aid H J Tempel on 5 December 1986 that the Magopa could visit the graveyard in order to maintain it. This issue occupied a 19 November meeting between Viljoen and three other officials and six Magopa representatives.¹⁹⁷ Viljoen reaffirmed their right to clean the graves and conduct services. The government would proclaim the graveyard and an entrance road as state land for that purpose. The Department of Development Aid would provide water. Visits to the graveyard, however, still required permission from the local magistrate. Viljoen would tolerate the "temporary structures" already erected by the Magopa until the graveyard had been cleaned and "the ox has been slaughtered." In the meantime the Department would build a structure adjacent to the graveyard to minimize the area set aside.

At this point, potential disagreement emerged.

Mr Matthews Kgatitsoe re-affirmed their commitment of co-operation with the RSA Government. They have no intention to settle at Zwartrand and will do nothing of which the Minister does not approve. *They, however, want to discuss the proposals of the Minister regarding the isolation of the graveyard with the community.* The structure erected by the Department is not suited for their circumstances. They are used to living in separate structures. They also do not live next to their graveyards. The structures must be further away. *They also want to discuss these issues with the community.*

The Minister asked the Magopa-Committee to indicate (a) *how far the structures must be from the graveyard* and (b) *how many structures they have in mind.*

The committee was to consult the community and return to the Minister.

Although Viljoen had promised to present new land proposals to the Magopa by the end of November, he wrote Budlender on 30 November that he had experienced difficulties and postponed the meeting for three months.¹⁹⁸

The conflict over the graveyard soon intensified. Haysom (who was again representing the community) telexed Viljoen on 16 January 1989 that a local policeman and official had ordered the Magopa to demolish the shacks in which they were living while repairing the graveyard. He requested that the issue of such accommodation be postponed until the community met with Viljoen the following month and promised that no further structures would be erected.

The next day H S Pienaar, Director General of the Department of Development Aid, wrote to both Matthew Mpshe and Matthews Kgatisoe at Onderstepoort that a number of families had settled at Mogopa and more intended to do so, in violation of their understanding. The Minister therefore had ordered that all structures built since 9 December 1988 be removed within 24 hours. Work on the cemetery also had to stop until this was done and government permission obtained. This letter reiterated the verbal order delivered to them by P Olivier of the Department of Development Aid on 13 January.¹⁹⁹

At about the same time (but presumably before he had received Haysom's telex), Viljoen wrote Budlender an angry letter.²⁰⁰

It would appear that the permission given to the Magopa-committee of Onderstepoort to visit the graveyard at Zwartrand for maintenance purposes is now being used as a smoke screen to start a process of resettlement of the Magopa people at Zwartrand.

These actions are completely contradictory to the negotiations and discussions with yourselves and your clients thus far concerning the permanent future of the Magopa Community and the good spirit of co-operation which has been prevailing between the RSA Government and the community.

He asked Budlender "as Legal Representative of the community" to intercede and warned that "although not preferable, legal steps will nevertheless have to be taken.
...

Haysom telexed Viljoen on 31 January that he had met with the 40 men cleaning the graves at Mogopa the previous day. They maintained they had built nothing since their promise of 16 January and invited the Department of Education and Development Aid to inspect their work. They wished to continue until Viljoen submitted his proposal for a permanent settlement, as promised on 30 November. Haysom enclosed a proposal from Raymond Tucker, attorney for the Botshabelo Trust, to buy Mogopa and asked whether the meeting with the community could be advanced.

Viljoen wrote a threatening response to Cheadle Thompson and Haysom on 7 February.

I wish to inform you that the erection of 43 completed and 4 partly completed structures at Zwartrand and the presence of 70 persons on the property are contrary to the negotiations and discussions with your clients thus far.

Therefore the Minister of Agriculture and Water Supply and I are bringing application for the eviction of the people on the farm Zwartrand as well as for the removal of all the structures and the people's possessions and ancillary relief.

The proposal that the Botshabelo Trust be allowed to repurchase the farms Zwartrand and Hartbeestlaagte [sic] for the Magopa community cannot be considered favourably in view of the Cabinet's decision that the Magopas may not return to these farms.

The provisional undertaking of the Government dated 18 December 1985 that these farms would not be alienated, is hereby rescinded and steps will now be taken by the Government to dispose of the land.

He agreed to meet on 18 February and asked the Magopa to comment on the demarcation of the graveyard, as they had promised on 19 November. The meeting was no more successful than previous encounters. The Magopa reiterated their desire to return to Zwartrand, and the government refused without offering reasons.

But the government did not wait for the meeting. On 13 February—a day before the fifth anniversary of the removal—it served a notice of motion on Budlender that it would apply to the Supreme Court the following day to evict the Magopa from Zwartrand.²⁰¹ Budlender immediately faxed the State Attorney that he was *not* the Magopa attorney. He had merely filled in from October 1987 to June 1988 while Haysom was on leave. He had had no involvement with the community since June, as Viljoen knew. Budlender had forwarded to Haysom Viljoen's letter of 30 November; Budlender had never received the letter of 20 January (which was misaddressed).

The opposition press greeted the lawsuit with hostility: "Govt bid to prevent reoccupation of land,"²⁰² "Mogopa families could be evicted yet again,"²⁰³ "On the fifth anniversary of Mogopa, a new attack,"²⁰⁴ "Govt seeks to re-evict Magopas."²⁰⁵ The *Weekly Mail* article carried a photograph captioned "Police vans and Agriculture Department vehicles block the entrance of Mogopa farms to prevent anybody from entering."

The Minister of the Department of Agriculture and Water Supply and the Minister of Education and Development Aid sued Daniel Molefe (believed to be the spokesman at Mogopa), Matthew Mpshe (chairman of the Magopa committee at Onderstepoort), Peter Chief More (believed to be chairman of the Magopa committee in Johannesburg) and Jacob More (described as chief).²⁰⁶ The applicants sought an order that the Magopa leave Zwartrand, remove all structures, and not return unless they obtained Viljoen's written permission. Dirk Jacobus Minnaar, Assistant Director, Division of Financial Aid, Department of Agriculture and Water Supply, filed the founding affidavit.²⁰⁷

The Department had leased Zwartrand to the (white) agricultural unions of Koster and Ventersdorp Districts for grazing. Minnaar recited the history of the tribe, noting the expropriation of Zwartrand and Hartebeeslaagte and the payment of R1,427,000 in compensation to the 420 families. He also narrated the events of 1988-89 concerning the cemetery. He had visited the farm on 30 January and found 43 houses completed, four partly completed, and material to build more, covering an area of 3km

around the cemetery. He found 70 people on the farm: 59 men, seven women, and four children.

It was clear to me that the members of the Magopa-tribe were busy with a secret attempt at trying to re-establish themselves on the farm Zwartrand. . . . I went to inspect the cemetery and found that only about one third had been cleaned up in spite of the fact that members of the Magopa-tribe had already been there for a period of three months. . . . [I]t is clear that the cleaning up the cemetery has been deliberately delayed because the cemetery is being used as an excuse to get more and more members of the Magopa-tribe to establish themselves on the farm.

The government planned to demarcate the cemetery and its entry so it could sell the rest of the farms in the next two or three months. Eviction was urgently needed.

[T]his re-establishment of the Magopa-tribe has a long and unhappy history, and has received world wide news coverage. Such news coverage was virtually always negative and as a result the image of the Government of the Republic of South Africa was seriously damaged. In fact, there were television teams and reporters at or in the vicinity of the cemetery and also at the entrance.

The government had called in the South African Police, who patrolled the entrance but could not secure the entire farm.

It is also untenable that the South African Police should be used for this purpose. . . . an explosive situation started developing. The television teams and reporters spied on every movement in anticipation that much money could be made out of the situation and to the detriment of the South African Government.

The Magopa at the farm attracted others; if they were removed, fewer would come. This application could not name everyone at the farm because "the people are secretive . . . [and] hide away or give false names." They also could not be served with legal papers, which instead were attached to the door of each home at Zwartrand.

Schalk Willem Burger Engelbrecht, an official in the Department of Agriculture and Water Supply, visited Zwartrand during the weekend of 27-30 January to monitor the situation. Daniel Molotsi, who represented himself as a member of the Magopa committee, told Engelbrecht that the tribe intended to stay at the farm for ten years in order to clean the cemetery. Jan Daniel le Roux, a farmer at Vaalbank, Coligny District, was chairman of a committee that had been granted grazing rights at Zwartrand in 1987. He complained that the numerous Magopa had trampled grazing land, tampered with water installations (because they had no water supply) causing R700 damage, and created unsanitary conditions. Pieter Daniel Olivier, Hartebeesfontein town manager,

visited Mogopa on 11 January and saw 15 houses occupied, five more unoccupied, four under construction, and 15 heaps of building materials. On instructions from his superiors in the Department of Development Aid Olivier visited the Mimosa farm at Onderstepoort on 13 January and told Matthew Mpshe and Matthews Kgatitsoe that Viljoen had ordered the removal of all buildings constructed since 9 December. This would have left six structures (and one half-completed). Matthews Kgatitsoe said they had expected this. The Department followed this oral warning with letters to both (at Onderstepoort) on 17 January.

Having read these affidavits and heard argument from both sides (on 14 February—the fifth anniversary of the forced removal), Judge Human granted an interim order on 24 February prohibiting those on the farm from erecting more structures and anyone else from entering the farm. He instructed the respondents to serve their affidavits by 17 March and the applicants to reply by 23 March. He justified this order in a lengthy judgment, which began by reviewing the earlier case. The government had expropriated and now held title to the farms, which it leased to local farmers. He noted that "the matter received worldwide publicity over a long period of time." He narrated the post-removal history, including events at the cemetery. He accepted the applicants' entire story, paraphrasing or quoting their affidavits at length. He rejected the respondents' argument that le Roux's affidavit was irrelevant and the matter not urgent.

This specific portion of the Magopa-Mimosa-tribe [sic] have created a smokescreen with regard to the cleaning up of the cemetery with a view to resettlement. The Government is the owner of the farms and the members of the Magopa-tribe who are presently living there have no prima facie right to live on the property. Besides this the Magopa members are creating a situation which is untenable.

The government had no obligation to remedy the unsanitary and unhealthy conditions on the farm, which might constitute an admission that the tribe had rights. Nor did the government have to give any reasons for selling the farms. *The Citizen* headlined its story "Interim interdict against Magopa squatters."²⁰⁸ Its pro-government bias was obvious in this summary: "An end was put to litigation when the state expropriated the farm in 1986, and members of the tribe vacated the farm, with one section settling at Pachstraii [sic] and another at Onderstepoort. Members of the tribe were compensated by the state in the amount of more than R1,4 million."

Between this interim order and the hearing on the merits, Haysom telexed Viljoen on 15 March to offer the Magopa response to the 18 February meeting.

The community does not see its way clear to settling the issue of the grave sites until such time as a satisfactory conclusion has been reached in the negotiations regarding the question of alternative land and/or their repurchasing Swartrand and returning there.

In this regard the community would like to be advised for what reasons the Cabinet has decided that they cannot return there. In all negotiations and discussions to date the only reason given by yourself is that "it is a Cabinet decision." If the community is advised on what grounds this decision is based they will be able to make a realistic assessment of what their prospects are of ever returning there. Until this issue is cleared up they cannot abandon their hopes of returning to Swartrand.

Officials of your department recently refused our clients the right to bury a member of the community on the burial site at Swartrand. There was a firm agreement between the parties that members of the community who died could be buried there. We would be pleased if you would instruct your officials not to obstruct our clients in the carrying out of this agreement.

Daniel Molefe, the first respondent, filed a 40-page answering affidavit on 17 March. He also reviewed the history of the tribe, stressing the community's viability, the illegality and harshness of the removal, and the subsequent hardships. The compensation paid by the government was little more than R3000 per family—not nearly enough for houses, standing crops, and fruit trees. He revived the claim to mineral rights. Negotiations for alternative land had failed.

He then turned to the cemetery, observing that on 12 December 1986 the government had granted the tribe permission to visit and maintain it, reconfirming this on 24 August 1988. During the four years of neglect it had deteriorated badly. Erosion had created a large donga (gully). Fifty men were tackling the job. At the meeting on 19 November 1988, Viljoen had allowed the temporary housing to remain until the graveyard was cleaned. He did not require that they obtain permission from the local magistrate. Another 20 had joined them. On 27 January 1989 the South African Police and officials from the Ministry of Education stopped the cleaning. Since then some Magopa had left, and fewer than 50 remained.

The Magopa tribe has never given up hope of returning to their land. They believe that it is only fair and reasonable that they should be allowed to do so and as indicated we are advised that the expropriation was unlawful. In the circumstances and until this dispute is resolved there is no reason to agree to a partition of the land through the excision of the grave site. The tribe has the means to re-purchase the land.

No more structures had been erected after 30 January. All existing structures were south of the graveyard and occupied less than two soccer fields.

I deny that there is any secret attempt to re-establish the tribe on the farm. Daniel Malotsi . . . states that the said Engelbrecht approached him without identifying himself and asked him when he was leaving. His

response was rhetorical and not intended to be a statement of the views of the tribe and in fact does not reflect the attitude of the tribe.

Only a third of the graveyard had been cleaned. The work had been halted by the government; the tribe was not dragging it out. The government had given no reason for its haste to sell land that had been vacant more than five years.

The presence of the South African Police on the farm was totally without purpose in that their duties appear to be only to stop people visiting those at the graveyard, to restrict the flow of food to those people, to conduct searches of persons wishing to enter the land in their cars and to stop television teams and newsmen from entering the area to film or report on the events there. Their presence was provocative and intimidating. They did little to enhance the image of the South African government. The applicants appear to have recognised these facts in that subsequent to the institution of these proceedings the police have been withdrawn. There is not, nor at any material time hereto has there been any, explosive situation at Zwartrand. The television teams and news reporters that were present left when the police withdrew.

Molefe denied that the tribe intended to use the graveyard as a foothold to return to the land. In any case, the police could easily prevent this. The police themselves were responsible for any unsanitary conditions.

While members of the South African Police were present they took it upon themselves to use the main water supply for the community, namely a reservoir filled by a motor pump, to swim in while they idled their time away. As such, they contributed to an unhygienic situation insofar as it may be thought to exist.

It was the police who damaged the farmers' pump.

The respondents also submitted an affidavit concerning health conditions on the farm, prepared by Dr. Eric Buch, co-director of the Centre for the Study of Health Policy at the University of the Witwatersrand. He had visited the farm on 14 March and examined 40 of the 47 people. He found no skin or eye infections, diarrhoea, or waterborn or waterwashed diseases. The bore hole provided adequate water. There was a pit toilet for every 16 people. The 30-litre refuse tin was emptied periodically and attracted no rats or flies. "In my opinion it would be a severe misrepresentation to suggest that the situation is untenable or that a major disease outbreak is imminent."

Minnaar replied on 29 March. He refused to enter debates about the status of Jacob and Shadrack More or the fairness of the expropriation. It was inappropriate to challenge the legality of the expropriation because this had been conducted by the Minister of Community Development (S F [Pen] Kotze), who was not before the court.

The respondents' allegation that the Minister of Co-operation and Development breached his fiduciary duty was irrelevant, since it was not he who expropriated the land. The Magopa received adequate notice of the expropriation in a letter from Viljoen to Haysom on 28 November 1986 (eight months after the government acted). The expropriation was justified under regulations accompanying the Expropriation Act read with s.13(2) of the Development Trust and Land Act, 18 of 1936. It implemented a consolidation policy drafted by a Parliamentary committee and adopted by the House of Assembly on 16 May 1975 and the Senate on 27 May. If the respondents wished to challenge the expropriation, they had to bring an application under Supreme Court Rule 53. The objection to the expropriation was no longer timely. It took place five years ago, and the transfer itself occurred on 6 August 1986. It would be unfair after such a long period to expect government officials to testify about their behavior. Pen Kotze left office as Minister of Community Development on 3 September 1984; his successor, Lapa Munnik, left on 30 November 1986 and was now in poor health. Piet Koornhof left the Ministry of Co-operation and Development in September 1985 and was now Ambassador to the United States.

Minnaar repeated the post-removal history, contrasting the 250 families at Pachsdraai with the 170 at Bethanie and later Onderstepoort, whom he characterized as a "minor splinter group." He deplored the reassertion of claims to Zwartrand; if they succeeded, the Magopa at Pachsdraai would forfeit their rights to that land. He stressed the importance of stability and certainty in land rights(!) and warned against the disruption of state administration. The respondents had known about the expropriation since at least December 1986 and failed to challenge it.

Minnaar again offered a different version of events at the cemetery. When Mr van Schalkwyk visited it on 28 September 1988 he found ten elderly men living in two houses with an outside toilet, about 2 km south of the cemetery. They agreed (subject to Viljoen's approval) that the Department of Development Aid would construct a total of six houses for 36 men, about 200 meters south of the cemetery. A house with six sleeping areas was built there but never occupied. Instead the Magopa erected six houses about 2 km south of the cemetery. This was the situation when the Magopa met Viljoen again on 19 November 1988. There were 87 people (not 48) on the farm at the time this application was brought, even if some had left by the time Dr Buch visited.

The cemetery was about 1.5 hectares, slightly larger than two rugby fields. A month should be ample to clean such a small area. On 18 February 1989, Viljoen offered to help fill the donga. Those already cleaning the cemetery did not need the magistrate's permission, only others who sought to visit. The South African Police maintained a low profile at Zwartrand, simply protecting employees of the Department of Agriculture and Water Supply. They remained outside the farm, conducting searches of people and cars. They were not provocative or intimidating. "From the very presence of television teams and reporters it is clear that an explosive situation existed. . . ."

Francois Gerhardus Johannes Wiid, Director of Community and Ethnological Services in the Department of Development Aid, obtained his B. A. in African Studies at the University of Pretoria in 1957 and had been with the department for a quarter century. He spoke Northern Sotho fluently and had an "intimate knowledge of the habits and customs of the Tswana." They traditionally buried inside the kraal to minimize the danger of desecration. Men, women, and boys could visit the graves at any time, although women were viewed as impure when menstruating. The Zwartrand cemetery was a western innovation. No custom barred people from the cemetery after noon. There was a customary aversion to living near the graves of "strangers," however, which would have justified the insistence on building temporary residences some distance from the cemetery.

Schalk Engelbrecht offered a second affidavit. When he visited Zwartrand on 20 January the cemetery was overgrown with weeds; less than a tenth had been cleaned. There were two recent graves. Some of the huts constructed by the Department of Co-operation and Development stood empty. He returned to the farm on 18 February to conduct a census and found 75 adults and 12 children.

Jeremiah Jesaja Lindeque, adjutant officer in the South African Police, commanded two sections conducting an investigation at Zwartrand on 14 March. He searched every house and found that no structures had been erected since 28 January. He also counted the people and found 45, but Daniel (Molefe) told him that the others had gone to Onderstepoort to get money.

Paul Andries Michael Joubert, Assistant Director of Community Settlement in the Department of Development Aid, visited the farm on 5 January and found 25 completed huts, six more under construction, seven heaps of corrugated iron and poles, and seven rolls of barbed wire and poles.

Jules Browde SC and Gilbert Marcus argued for the respondents that the expropriation was invalid because it was not for a public purpose and was effected in bad faith and for an ulterior motive. The applicants had not denied this but simply argued that it was too late to challenge. Although the applicants invoked s.13(2) of the Development Trust and Land Act, the expropriation notice referred only to the Expropriation Act. Furthermore, the Development Trust and Land Act applied only to land outside a scheduled area, but the farms were in a scheduled area (the State President excised them only on 26 October 1984). The title deed itself stated that the land was expropriated under the Expropriation Act by the Minister of Community Development. Only the Minister of Agriculture can expropriate under the Development Trust and Land Act. The report of the Parliamentary Select Committee concretizing the Development Trust and Land Act policy was concerned with tribes in the areas listed in Schedule B, but Mogopa was in Schedule A.

The respondents rehearsed the history of their earlier challenge, in which the Appellate Division had invalidated the removal. Viljoen had said the previous June that

the Cabinet might permit them to return if they could show that local whites did not object; they had done so, but the Cabinet still refused.

The expropriation served no public purpose and was merely a disguised removal. The Minister of Community Development was really acting as a front for the Minister of Co-operation and Development, who had the power to reprove, chose the time, used his own officials, and signed the order of removal. The Magopa had negotiated exclusively with the Minister of Co-operation and Development. The advocates reviewed his role during and after the removal.

The Minister of Co-operation and Development had fiduciary duties toward the tribe. Like his predecessor, the Minister of Native Affairs, he held the land in trust for them. He violated his obligation to conserve the property by destroying houses, schools, and churches. He had to avoid a conflict of interest. He should have sought the Supreme Court's guidance but instead thwarted the tribe's efforts to have the matter adjudicated. He had to consult and obtain the tribe's consent but instead dealt with a deposed headman and a minority of the community. The Minister's bad faith was demonstrated by the gross unreasonableness of his actions and his racial discrimination in allowing white farmers but not black to buy the land. Browde invoked the Appellate Division's invalidation of the government attempt to incorporate Moutse into KwaNdebele (see that monograph).

The men cleaning the cemetery erected seven huts (which Olivier and Van Schalkwyk approved) because the government had built a single collective structure too close to the graves. The men had worked diligently, but the job was large. The donga that threatened to erode the graves was five meters wide, nearly two meters deep, and about half a kilometer long, as Haysom had explained to the Minister on 31 January. The Minister offered to help fill in the donga only on 18 February, four days *after* the application was set down for hearing. Engelbrecht said that less than a tenth of the graveyard had been cleaned on 20 January, whereas Minnaar said a third had been cleaned ten days later, showing rapid progress. Tribal custom allowed work on the graveyard only from sunrise to noon; the afternoons were reserved for burials. Those already engaged in cleaning had asked others to help because of the magnitude of the task. They had discussed this with Olivier and van Schalkwyk, who promised to construct more structures further away from the graveyard, but this was not done. Wiid's testimony about Tswana customs could not be applied without research on the Magopa, whom he had not interviewed.

The community had never been given formal notice to quit. It had only been told to stop cleaning until certain structures were removed. Consequently the remedy of ejectment was unavailable.

Haysom filed a supplemental affidavit on 10 April denying that the community had forfeited its right to contest the expropriation, about which it was first notified on 1 January 1985, while awaiting Appellate Division review of its application to challenge

the removal. At the same time it was negotiating with the Department of Co-operation and Development for alternative land and had received the Department's undertaking not to sell Zwarttrand. It did not challenge the expropriation in court because it sought to avoid litigation.

At no stage, however, were the tribe's legal remedies in respect of the expropriation abandoned. Indeed, legal submissions concerning the invalidity of the expropriation and the breach by the Minister of Co-operation and Development of his fiduciary duties to the tribe were set out in the detailed memorandum to Dr Viljoen [of December 1986]. . . . The reconciliatory attitude adopted by Dr Viljoen, both in inviting the memorandum and in his response to it, left me in no doubt that litigation would be inappropriate if the matter could be settled.

The Magopa had been further encouraged by Viljoen's public declaration that forced removals had been abandoned, the reprieve of other communities threatened with removal, and the repeal of the legislation under which the Magopa had been removed. (Haysom later reflected on the weaknesses of the Magopa case. First, the remedy for breach of trust would have been money damages, whereas they wanted to vitiate the expropriation. Second, any procedural irregularity could have been corrected by a new expropriation. Third, it was improper to challenge the expropriation in defending the eviction; it had to be done directly. Fourth, once some Magopa had left, under the leadership of Jacob More, the rest were no longer a tribe and therefore lacked standing.)

A number of newspapers reported the argument in the Pretoria Supreme Court at the end of April. The *Sowetan* headlined "Lawyer Accuses Govt Of Racism."²⁰⁹ *The Citizen* repeated the government line that "an end was put to litigation when the State expropriated Zwarttrand and Hartbeeslaagte [sic], and the members of the tribe vacated the farms."²¹⁰ Under the headline "Tribe fights for farms: Bid to reverse unlawful removal," *Business Day* gave the true narrative: "The eviction order [removal] was ruled invalid by the Appellate [sic] Division in September 1985. But, while legal proceedings were pending, the tribe was forcibly removed and the Community Development Minister served an expropriation notice."²¹¹ It quoted Browde's denunciation of the expropriation as "one of the most flagrant violations of human rights conceivable."²¹² *City Press* used the misleading headline "Govt told to return land to Magopas" to describe Jules Browde's argument, not the court's decision.²¹³ The day of oral argument Peter Soal asked in Parliament why Viljoen could not reprieve Mogopa, as he had Mathopestad.²¹⁴

Just before judgment the *Washington Post* published another tearjerking account by Allister Sparks.²¹⁵

At 84, Ephraim Epooe [sic] is thin and grizzled. He wears a tattered brown bonnet pulled low on his head as protection against the chill of the approaching Southern Hemisphere winter.

He does not look strong, but for three days last week Epooe retreated into the mountain behind his small tin shack to fast and pray for a cause that he says is dearer to him than life.

His prayer, as he expressed it in the simplest of language, was that his small Magopa tribe would win a court battle it is waging and "the Boers will be chased from our land". . . .

Last week, members of the tribe packed the courthouse here in tattered clothing, with their gnarled hands and creased peasants' faces, listening intently to white lawyers and the white judge engage in technical legal arguments about the rights of possession, none of which they seemed to understand but on which they knew their future hung.

Epooe, meanwhile, was in the mountain praying. He is the tribe's priest, and he left seven colored candles burning in his tin shanty to lend strength to his prayers.

Haysom later recollected the Pooe said he had prayed to fortify the lawyers, whom they saw as the tribe's champions; indeed, Haysom was introduced to the tribe as their Mohammed Ali.

In the end, however, legal technicalities were more powerful than prayer. Judge W J van der Merwe gave judgment on 2 May 1989. He reviewed the history of the Magopa very briefly, declining to "go into everything that they did on the farms." He disposed summarily of the conflict over Jacob More: "It further seems that in the early eighties there were problems with the statutory head man of the tribe. . . . Once again I am not going to go into detail on this matter." He noted the Appellate Division judgment but emphasized that the court found the dispute moot because the farms had been expropriated and vacated.

The present controversy concerned the right to be at Zwartrand in order to clean the cemetery. He acknowledged that "the tribe view this matter with great interest. For them it is a matter that evokes great and intense emotions." But he found that permission to reside at Zwartrand in order to clean the graves, granted on 5 December 1986 and 24 August and 19 November 1988, had been withdrawn on 13 January 1989.

The judge also found that the Minister of Community Development was a necessary party to any proceeding in which the respondents challenged the expropriation of the land by him (or his predecessor). The applicants magnanimously conceded that three days was too short a period for the Magopa to vacate the land and agreed to seven days. On that basis, the judge confirmed the temporary order and made it permanent, asking the Ventersdorp police to help carry out the eviction.

The Citizen headline could not conceal its satisfaction: "Squatters get seven days to leave land." It reiterated the government's intent to sell the farms to whites in the next two or three months.²¹⁶ More sympathetic papers phrased it differently: "Mogopa tribe to be evicted in 7 days,"²¹⁷ "Mogopa tribe loses battle to stay on farm,"²¹⁸ "Despite the approach of "D-Day for tribe that refuses to leave land of their forefathers," in the colorful language of the *Sunday Times* headline, spokesmen vowed to remain. The paper photographed the elderly Ephraim Hebooe (sic), who declared his refusal to budge.²¹⁹ In an accompanying editorial, it condemned the judgment as a "bad move," which "makes a mockery of the Government's much-vaunted new approach to the question of forced removals. . . . after the doughty fight put up by the remaining families there is no reason why the Government should not relent."²²⁰

The Magopa applied for leave to appeal the next day, reiterating both of the arguments rejected, but Justice van der Merwe refused to stay the eviction pending his decision. West Germany led 12 European governments in delivering strong protests to the Ministry of Foreign Affairs about the eviction order. Several embassy officials and human rights activists visited Mogopa to express solidarity. Peter Ruthman, first secretary of the West German embassy, declared: "The destruction of the Mogopa village in a clandestine night raid showed clearly how the South African Government treats peace-loving people who had lived on their land for more than 70 years. It is an abuse of human rights." Nevertheless, the State Attorney telexed Haysom to deny press reports that the government would delay eviction until the appeal was resolved. Nearly a week after the deadline, however, the *Sunday Tribune* found 20 defiant Magopa still on the site. Daniel Molefe proclaimed: "We are not going anywhere. The Government can shoot us or take us to jail, but we will not give up the rights to our own land."²²¹

Although Mogopa was the last "forced removal," the government had not abandoned the ideal of grand apartheid. Despite the fact that the Appellate Division had invalidated the incorporation of Moutse into KwaNdebele (see that monograph), the government continued to incorporate ethnically Tswana communities into Bophuthatswana. Braklaagte, near Zeerust, lost a Supreme Court challenge in March 1989, prompting homeland soldiers and police to take revenge on those leading the resistance. Two civilians and nine police were killed. Acting chief Pupsey Sebokgodi was arrested and charged with murder, together with 56 others. Bophuthatswana police attacked Leeuwfontein residents also resisting incorporation. They tortured detainees and barred lawyers for the communities.²²² (I discuss these cases further in the Moutse monograph.) Potsdam residents removed to Ciskei in 1983 fled back to South Africa in 1988. In January 1989 the Supreme Court affirmed their South African citizenship but gave them no specific place to live. The government stalled on finding them permanent land.²²³ By February 1991 Ciskei had offered to transfer their land back to South Africa, whose government had promised R500,000 to compensate for homes destroyed.²²⁴ In January 1989 the Cape Supreme Court dismissed an application by Port Nolloth municipality to evict 500 people from the salt flats. Justice H L Berman warned that the "mass deportation" of a relatively stable community would have "mind-boggling" consequences, dumping many women and children in the desert without

shelter. Reflecting the Magopa victory in the Appellate Division he added: "The removal of communities from one locality to another is a phenomenon not unknown in this country . . . but in every case of this kind the deportation order . . . made provision for a removal from one place to another place."²²⁵ In November 1989 Lawaakamp convinced the George town council to abandon its four-year effort to remove the community and upgrade it instead.²²⁶ In December the government reversed its August 1988 decision to incorporate Peelton into Ciskei.²²⁷ The same month the Supreme Court invalidated an attempt by the House of Representatives to subdivide land grazed in common by Namaqua people.²²⁸

The defeat in the May 1989 Supreme Court ejectment action might have been the end of the story, but the Magopa were no more willing to admit defeat than they had been during the preceding seven years. Justice van der Merwe granted leave to appeal on 2 October, staying the order of ejectment. Those living at Onderstepoort met with a Trac fieldworker on 15 November 1989 and heard that the appeal would take a long time—perhaps until November 1990. The Planning Committee reported that everyone still wanted to return to Mogopa. There were problems, however: their truck was too small, people were impatient, some were not part of the original community, moves could not occur during the rain, and some wanted to move their cattle. The community agreed that they would look for a larger truck, people must be patient and leave quietly, no livestock would be transported for the time being, and original members would have priority. Five trips had already been made to transport four families.

On 16 February 1990 (two weeks after the government legalized the ANC and other anti-apartheid organizations and five days after it released Mandela) the Magopa met with Trac fieldworkers and their lawyers at Zwarttrand. Haysom read a telex from the Department of Development Aid, which had heard rumors that the Magopa were returning by truck and building shacks. That violated the community's representation to the Supreme Court and jeopardized negotiations for alternative land. The Department asked Haysom to persuade the Magopa to return to Onderstepoort. The community greeted this with laughter. The people were very happy to be back at Mogopa, even if there were no resources and great need. They would never leave; the government would have to shoot them and throw them into the diamond mine, which was deep enough to hold them all. They instructed Haysom to reply by telex, talk informally with J C "Stoffel" van der Merwe, Minister of Education and Development Aid, and try to arrange a meeting between him and the community.

Lydia Kompé, a Trac fieldworker, stayed overnight to discuss several issues. The community was still organizing education for the children and needed help. It had cleaned the dam but was being forced to pay the farmer for diesel fuel for the pump. People agreed to share collective responsibility for security, each carrying a whistle to summon assistance. The women elected a new planning committee. They wanted to construct a security fence around the graveyard to show they would never be moved and collect money for the bus to Bloemfontein for the Appellate Division hearing. The

outstanding cost of transport from Onderstepoort to Mogopa was R15,900 (in addition to R4700 already paid).

As part of the ongoing (if slow) reform process, the State President declared that the Lands Act would be revised. In pursuance of this J C van der Merwe announced on 22 May that the government would sell no agricultural land once owned by black communities but expropriated under consolidation policies.

On 3 July Haysom sent Piet Marais, Deputy Minister of Education and Development Aid, the "Magopa Land Proposals 1990" drafted by Trac. In light of the State President's assurance that "the door was always open to approaches from black leaders," the community had met on 20 June and resolved to negotiate a legal return to Mogopa. Like other "black spots" in the Western Transvaal, Mogopa had been economically viable, producing both subsistence and a surplus. Migrant labor generated capital for schools and other development projects. Land also constituted a form of social security for the elderly. There were no significant divisions between farmers and migrants, landowners and tenants. Social structure and productive methods complemented each other, and each would be disrupted by a move outside the "maize triangle." Irrigated agriculture had different labor and capital requirements. Government policy recently had emphasized the importance of small-scale farming. The Magopa had unique historical and political claims to their land. Their intimate knowledge of it would allow them to achieve maximum productivity. White neighbors in both the National and Conservative Parties would accept their return. Some members of the community already were working as farm laborers. Their business was sought by Ventersdorp merchants. White landowners elsewhere in Western Transvaal would probably be more suspicious. Zwartrand was bounded by government land and had direct access to a road, minimizing potential conflict. Pachsdraai had never been transferred to the Magopa; title was still held by the South African Development Trust. Therefore the Magopa had never been compensated for their land.

In this context, it would be a sufficient and simple act for the Government to transfer their title deed back into their names.

We believe that the issue need not involve a major debate of principle.

. . . the return of the Mogopa community can be explained as respect for the rule of law rather than as the beginning of a new trend.

The return of the Mogopa would greatly benefit the Government's image both in South Africa and internationally. It would be seen, not as a reform handed down from on high, but as the result of a negotiated settlement with a widely respected black group. In this era of negotiations, it would set a positive example of what the process of negotiations can achieve.

Marais's secretary replied on 7 July, acknowledging receipt.

Mr Marais would like to request you to afford him a reasonable time to deal with this matter as it will most probably have to be submitted to Cabinet. In the meantime the whole matter must please be treated as confidential. Mr Marais has information at his disposal indicating that the Magopas are still moving to Zwartrand in large numbers. You are therefore further requested to render your co-operation to try to stop this influx as it can serve no other purpose than to hinder efforts to solve this delicate problem. From his side, the Deputy Minister has undertaken to deal with the matter without prejudice.

On 25 July a spokesman for the Department of Development Aid announced a reprieve from removal for 160,000 people in 180 rural communities in the Natal Midlands. They included Matiwane's Kop, Steincoalspruit, Cornfields, Stoffelton, Roosboom, and Thembalihle.²²⁹

When the Appellate Division finally heard the case on 24 August hundreds of Magopa attended—as they had each of the three earlier hearings. The court chose not to adjudicate. Acting Chief Justice Christiaan P Joubert opened the hearing by declaring: "Before we begin this case, I want to ask what is at stake here? These events deal with the past, and I am looking to the future. Is there no prospect of finding a solution to this matter?" He urged the parties to reach a settlement; during a brief adjournment the state's lawyers telephoned Stoffel van der Merwe, who agreed to meet with Magopa representatives on 20 September. If a settlement had not been negotiated two months later, the court would decide. In the meantime, those at Mogopa could remain but no one else could come nor could buildings (including the school) be constructed or altered.²³⁰

Prompted by this, the media picked up the story of the return. A *New York Times* article datelined August 27 reported that the Magopa had built 200 shelters. Joseph Katitswe [Kgatisoe], 63, said "we denied again to go out." "The people will stay in shacks until there is a decision." His sister, Elizabeth, however, had remained at Bethanie, even though she still had no trading license. But one young man had persuaded his father to finance the purchase of a minibus, which he used to transport people to Ventersdorp, 20 minutes away, for \$1.20.²³¹

The small number of people who had defied the March 1989 lawsuit and police action had grown to only about 70 by the end of 1989. But early in 1990 many others began to move. By August there were at least 250 families with 800 people. The community was rebuilding the school for the third time (in contravention of the interim agreement). Mogopa also had a medical clinic staffed by two nurses, whose wages were paid by a \$2 fee levied on every household.²³² By late September Piet Marais had conducted negotiations in a "very good spirit" with the Magopa. But on 23 September a meeting of about 100 in Onderstepoort was halted by police (alerted by an informer) because magisterial permission had not been granted.²³³ A second meeting was held on 26 September, apparently to organize further returns to Mogopa. Ten families

decided to go, four to stay, and 25 were undecided—partly because they feared government retaliation if they went. Several of those who declared their intention to return were assaulted or threatened; they planned to complain to the police. Haysom wrote Marais in early October to explore the possibility of moving the remaining families and their huts in government trucks and completing the school.

In mid-October representatives from Pachsdraai and Mogopa met with the Magopa lawyers to discuss title deeds at both places, the threat that Pachsdraai might be incorporated into Bophuthatswana, and reunification of the Magopa. At the end of the month the Magopa and their representatives met with Marais and other government officials, who wanted to "clear" the Magopa out of Onderstepoort but would not provide official transport to Mogopa. Marais was angered that Magopa leaders had spread rumors that the government would "bulldoze" Onderstepoort. The government claimed to be unable to give Pachsdraai mineral rights; it would grant them at Mogopa, but the Pachsdraai people wanted to share them. Pachsdraai people sought access to the cemetery; Mogopa people were willing to allow this but wanted help cleaning it. Both sides agreed to let the 20 November deadline to pass in the understanding that the case had been adjourned sine die. The government allowed the Magopa to resume work on the school but not to remove furniture from the Onderstepoort school as long as children were attending. Haysom wrote Marais again at the end of November. A large number of "outsiders" had moved to Onderstepoort, some with tribal permission, others with approval by the Department of Education and Development Aid. Feeling that continued provision of amenities (housing, food, jobs, schools, and transport) was contingent on the government's obligation to the Magopa, these outsiders sought to prevent the 23 families who wished to move to Mogopa from doing so. Haysom again sought government trucks and protection for the move. Marais replied in mid-December that such assistance would have to await the Cabinet's response to the progress report he was drafting. In June 1992 the Government announced that it would give the Magopa title to Zwartrand but not Hartebeeslaagte.²³⁴

VI. UNDOING APARTHEID

The Magopa victory inspired others. Just before Christmas 20 elderly men and women of the Barolong Ba Modiboa returned to Machaviestad, from which 184 families had been expelled in 1971, almost 20 years earlier, and paid only R18.50 compensation each. Although they had been making annual Christmas visits to clean the graves, this year the Potchefstroom town clerk's office mistakenly authorized them to stay from 22 December 1990 to 26 December 1991. When they stayed beyond five days, however, the police arrested 25 for trespassing. Acting town clerk Andries Viljoen declared: "If they wanted to talk about this land, they should have used the route of negotiating with the council instead of using these confrontational tactics."²³⁵

Charlestown had been removed to Osizweni in kwaZulu in 1975. The police blocked an attempted return in 1991 and arrested many. In November 1992 the Advisory Committee on Land Allocation authorized their return; 48 families moved back a year later. But there was no road access, the railroad had closed, and local industry was laying off workers.²³⁶ 350 had returned to Roosboom near Ladysmith, from which they had been removed to Ezakheni in 1975.²³⁷ Communities throughout the country were watching these developments with great interest.²³⁸ In February 1991 a thousand members of the 20,000 people removed from Doornkop (Middleburg district) in 1975 met to seek their return. The Mfengu people had been granted 19,000 acres in Tsitsikamma by the Governor of the Cape in 1837 for fighting with the British against other Xhosa. In 1977 the 4000 residents were removed at gunpoint to Keiskammahoek, losing their South African citizenship when Ciskei became independent in 1981. The following year the government sold 15,000 acres of Tsitsikamma to white farmers at a third of their market price; a decade later the value had increased 20-fold. At Christmas 1990, 80 Mfengu returned to clean the graves. In July Archbishop Tutu, himself Mfengu, met with de Klerk and Piet Marais to press their claim. In 1991 Piet Koornhof personally apologized to them and asked their forgiveness.²³⁹ In January 1993, 50 families returned to stay.²⁴⁰ After three years of negotiations, the government agreed to give the Tsitsikamma Development Trust R37 million to buy 19 of the original farms and return them to the Mfengu, who would then rent them to the current white farmers.²⁴¹ However, there were tensions with 170 "coloured" families who remained on the Moravian Church's Clarkson Mission Station adjacent to the restored land; and the younger generation of Mfengu lacked farming skills.²⁴² In response, right-wing Afrikaners pursued their project of a white homeland.²⁴³

In March 1991 the government published its White Paper on Land Reform, promising repeal of the 1913 and 1936 Land Acts and the 1966 Group Areas Act. But it warned ominously:

The Government is of the opinion that a programme for the restoration of land to individuals and communities who were forced to give up their land on account of past policies or other historical reasons would not be feasible. Apart from the vast potential for conflict inherent in such a

programme, overlapping and contradictory claims to such land, as well as other practical problems, would make its implementation extremely difficult, if not impossible. The Government believes that it is in the interest of peace and progress that the present position should be accepted and that opportunities afforded by the new land policy should be exploited to bring about a more equitable distribution. An attempt to return to the previous order will only disrupt the country's pace of development to the detriment of all.²⁴⁴

Stoffel van der Merwe added: "To return land to its original owners would open up a quagmire." Hernus Kriel, Minister of Planning and Provincial Affairs, concurred: "the present rights of people should be respected and protected. That's the basic." Rejecting the proposal for a land claims court, he asked: "How far would we go back? Ten years? A hundred years? Back to 1652 when we arrived here? Back further, when tribes in this country fought each other for land? Mistakes have been made. But we cannot start the world all over again. We have to have a cutoff point. We believe that cutoff point is today." The ANC promptly denounced this as presenting "a view of the history of black dispossession that absolves the white population of all responsibility for the existing unequal land dispensation. For the A.N.C., restoration of land to the victims of forced removal must form the underpinning of any credible land policy." The PAC agreed: "Our people were dispossessed by force of arms. It is illogical and insensitive to expect us to buy the same land we were dispossessed of."²⁴⁵ Two months later the government proposed an advisory commission on land allocation to reallocate government land to those dispossessed by apartheid. Hernus Kriel reiterated that "a program of restitution is not practical or financially viable. The Government is, however, not insensitive to the cause of people or communities who were possibly disadvantaged in the past." He warned that "if the Government receives a large number of applications, it's going to take a long time to do it."²⁴⁶ The Land and Group Areas Acts were repealed on 5 June. Now Kriel declared: "It is the Government's firm intention to turn apartheid into a dodo."²⁴⁷

The most dramatic action inspired by the Magopa victory was the reoccupation of neighboring Goedgevonden. In October 1947 the community had settled there and on the adjacent Welgevonden on land owned by the South African Native Trust. They built stone and brick houses, grew crops for subsistence and sale, developed water resources, and built a school, two churches, and graveyards. In 1978 they were forcibly moved to smaller, less fertile farms adjacent to Bophuthatswana and never compensated for their improvements. They returned regularly to maintain the cemetery. Five years later the government broke its promise and incorporated them into Bophuthatswana. Angry at the opposition to incorporation, the homeland detained community leaders, banned meetings, and forced some residents to take citizenship in order to obtain pensions. South Africa refused to answer pleas for help. In 1990 the South African government offered Goedgevonden and Welgevonden for sale. When the Pretoria Legal Resources Centre wrote to protest and seek a meeting, Piet Marais, Deputy Minister of Education and Development Aid, replied on 7 August: "as your clients live in the

independent country of Bophuthatswana, it would be inappropriate and totally irregular for me to agree to meet them for discussions."

Over the next eight months the people discussed returning, reaching a decision at a meeting on Easter weekend 1991. They hired Mr Herbst's firm to move them at R1250 a load. On 9 April, Levy Segopolo led 15 families back to Goedgevonden. They found some 400 cattle grazing, but the land was otherwise unoccupied. One white farmer welcomed their return and asked Segopolo to arrange for farm labor. LRC attorney Carrie Kimble wrote Dr A I van Niekerk, Minister of Agricultural Development, on 11 April, reciting his awareness of the situation and his "intention to deal with the matter objectively [which] encompasses adherence to the principles of natural justice." The following day government officials closed the area and erected a roadblock, preventing some of the group from returning from Ventersdorp (including mothers whose nursing infants were on the farm). Later arrivals also were barred, as was Kimble herself. When Mr Smit of the Ministry of Agricultural Development asked her how many intended to return, she estimated 3000. Deeply concerned, he asked her to stop them. She offered to try but only if he would allow those outside to enter and promise not to evict anyone. Smit suggested moving everyone to Mogopa, but Kimble said it was too small and also sealed. On 12 and 13 April Eugene Terre'Blanche and other Afrikaner Weerstandsbeweging (AWB) members drove to Goedgevonden to intimidate Segopolo, which he reported to the police.

On 13 April Smit and Kimble reached an agreement, recorded in her letter of 15 April.

1. For humanitarian reasons and without admitting the legality of the occupation of the farm Goedgevonden, the families from Vriesgewacht who were waiting on the side of the road at the farm Goedgevonden, would be allowed to go on to the land.
2. A complete list of all the people on the farm would be made.
3. The community leader Mr Segopolo, would undertake to stop the influx from Vriesgewacht.
4. The Department does not admit the legality of the occupation and reserves its rights.
5. The gates to the farm Goedgevonden would be manned by people from the Department of Agriculture, and if people left the land they should provide their names and the reasons for leaving. If they failed to do this they would not be allowed on to the land again.

They sought a meeting with officials from the Ministry of Agricultural Development.

The agreement worked: 400 remained on the farm and were allowed to return when they left; no more entered. But the request for a meeting was rebuffed. On 16 April Andries Goosen of the Department of Agriculture in Cape Town told Kimble the matter was being considered by the Minister's Council of the House of Assembly and

the Cabinet, which would decide the following day. He promised an answer to her 11 April request for a meeting by 18-19 April. On 18 April the AWB held a meeting in Ventersdorp, attended by the local MP, and issued an ultimatum: if the government failed to expel the community within 30 days the AWB would do so. Kimble called Goosen on 19 April, only to be told that the Minister had left for the Eastern Cape and no one knew his decision. She telephoned Goosen again and was told that a letter had been sent but no one knew its contents. Referred to the Superintendent General in Pretoria, she phoned him and was told he was in a meeting but would call back; he did not. Through an intermediary she arranged a meeting between Segopolo and Jacob de Villiers, Minister of Development and Land Affairs; before it could occur on 18 April, however, Kimble was told that the matter not within his jurisdiction. De Villiers met briefly with Segopolo as "one farmer with another," without their lawyers.

On 23 April the Minister of Agriculture and Agricultural Development and seven white farmers brought an eviction action against Segopolo and 86 others.²⁴⁸ The same day Kimble wrote the State President to correct the "misconception . . . that our clients have acted precipitously and taken the law into their own hands. . . ." In fact, they acted "in response to the constant rebuffs they had met with and in absolute desperation." On 26 April Dirk Jacobus Minnaar wrote Kimble that her clients "are occupying the relevant state land unlawfully by squatting thereon and thereby depriving the State as owner of the land and the lessees, of the free and unhindered use thereof." The Department of Agricultural Development "views this occupation in a very serious light." "In view of the seriousness of this situation it has been decided to apply more strict measures. . . . the Department has refused permission for entry to the land by vehicles carrying the occupants' purchases and possessions to prevent the squatters strengthening their position. . . ." "[T]his Department has not received any indication from the people on the property that they are in such dire need of food and other emergency supplies that it is necessary for the Southern Transvaal Red Cross and Operation Hunger to deliver. . . . Any relief measures organized by yourselves or any other agency will therefore have to be implemented outside the borders of the farm." On 30 April the Supreme Court issued a rule nisi in the eviction proceeding.

On 7 May Kimble wrote State Attorney M Coertze denying that more people had entered the farm (impossible in view of the police blockade) and complaining that the 9 pm curfew made it difficult for those employed to return home. On 3 May the State Attorney's office had refused to allow Operation Hunger to deliver a water tank. "Is it your clients' intention to deprive our clients of access to water?" This not only violated the earlier agreement but was "an inhuman act unbecoming of a government which has a duty to *all* its citizens." She also demanded that Segopolo be allowed to bring in 15 bags of mielie meal. The government allowed the Operation Hunger fieldworker to enter the farm for only ten minutes, without his vehicle. "This seems ridiculous." She threatened legal action, concluding: "Our clients advise us that in view of the threatening statements allegedly being made by certain right wing organisations in the area, they are extremely concerned that your clients, by their actions, are allying themselves with this behaviour." Coertze replied on 5 May.

It was never stated that my clients want to make it as difficult as possible for the squatters on the farm. I want to put on record that you were specifically told that my clients do not view the people as a 'community', but as squatters. . . . Therefore my clients do not regard it as their duty to supply the said squatters with creature comforts and to put them up in comfort on land on which they are illegally squatting. . . . [Any attempt to install a water pump would] be a flagrant contravention of the Court order. . . . As you well know, these people were moved at great expense from their whereabouts [sic] in the district of Rustenburg to the farm Goedgevonden by an as yet unknown organisation. The contractor who transported all these people together with their belongings told the Police that this contract was worth one million rand to him. You will agree that this does not seem to be a free and unvoluntary [sic] move from one area or district to this specific piece of land at Goedgevonden. It does seem more likely to be an orchestrated (and maybe even forced) removal of people from one area to another. . . . my clients are losing a considerable amount of money each day that the squatters remain on the land. This issue had not been addressed by you up to now. I do not agree with you that a legalistic approach to this matter will exacerbate the matter, but am of the opinion [sic] that any other approach will do exactly that. . . . I want your urgent confirmation that you have obtained written instructions from each respondent and that you have advised Mr. Segopolo to abide by the Court order of 30.4.91 [the rule nisi].

Kimble wrote again on 14 May asking why, despite the agreement, proceedings had been initiated. "Kindly advise: whether in fact a decision has been made to the effect that our clients may not remain on the farm Goedgevonden; if so, precisely what decision(s) have been made; by whom was such decision made and when; if no decision has been made, is such a decision still pending?" Coertze replied the next day that the government had entered into no agreement. It had merely stated the conditions for allowing her clients to remain on the farm, reserving the right to challenge their presence as illegal.

On the evening of 10 May SAP Lt Palmer, the Ventersdorp Station Commander, drove to Goedgevonden to warn the community to remain in their houses but not to sleep because "the AWB are coming to attack you." His men would stay at the farm, and he had called for reinforcements, bringing the police total to 25. Between 1 and 2 am some 180 white men with flashlights and weapons, chanting "AWB" and wearing its insignia, attacked people standing outside Mrs Mogape's house, damaging her car and belongings and 12 other shacks.²⁴⁹ Both WO Stephanus Jacobus Campher and Lt Palmer recognized Eugene Terre'Blanche, their leader. After the AWB left Goedgevonden they attacked Tshing, the Ventersdorp township, injuring 14 people. The police repelled a second attack on Goedgevonden, wounding two whites, shooting out the tires on three vehicles, and arresting three men. The SAP press release stated: "appropriate legal steps were taken against the squatters . . . and it was totally

unnecessary for anybody to take the law into their own hands. The SAP has a duty imposed by law to act against anybody who transgresses the law and will not hesitate to take appropriate steps to maintain law and order." On 17 May Olifile Levy Segopolo and the Community of Goedgevonden sought an interdict against Eugene Ney Terre'Blanche and the Afrikaner Weerstandsbeweging, which was granted on 25 June.²⁵⁰ Segopolo and six others were convicted of trespass in the Ventersdorp Magistrate's Court on 20 May.

Segopolo and 111 others replied to the eviction proceeding on 24 May and filed a counter-application to set aside the Minister of Agriculture's decision to refuse to allow them to remain on the land, declare invalid Proclamation 189 of 1984 (thereby revesting title in the South African Development Trust), and recognize their rights to exclusive occupation of the farms. The affidavit included documentation of the government's changing policies. In March Jacob de Villiers, Minister of Agricultural Development, insisted that the new policy would be applied flexibly and he was prepared to discuss claims by communities dispossessed in the past. "A programme for restoration is not feasible, but there is a spirit of cooperation and a willingness to speak. I have large ears and they are open."²⁵¹ In April he reiterated the government's intent to use money to build dams and infrastructure rather than buy land. "But it does not mean we would never do this; we have a negotiating stance."²⁵² After meeting with the Goedgevonden community he urged them to return to Bophuthatswana but was always willing to talk: "Our doors are open to help sort out problems that have arisen because of past events."²⁵³ Early in May the State President had given the (London) *Financial Times* an exclusive interview in which he qualified the White Paper's assertion that restoration of land "would not be feasible." "That does not mean the government is unapproachable. Government's general approach to this issue is to address the cases concerned with sympathy and reason."²⁵⁴ The government planned to establish an Advisory Commission on Land Allocation, which would have "due regard to claims by persons disadvantaged in respect of land concerned by the application of a law repealed by this Act."

The community intended to challenge the original removal under administrative law principles. It was so grossly unreasonable as to constitute bad faith. Alternatively, the responsible officials failed to apply their minds to relevant principles and information, acted arbitrarily, and failed to appreciate the limits of discretion. Government had displayed bias by discriminating against 10,000 blacks in favor of a few whites. Under s.2(2) of Act 18 of 1936 the displaced people had to be given equivalent land. They offered the affidavit of an agriculturalist to show that Vrishgewaagd was greatly inferior. The Ventersdorp District Surgeon visited the farm in April at the request of the South African Police, who told him there were no toilet facilities. He found latrines dotted over the land and no health threat. William Lacy Swing, the U.S. Ambassador, wrote A I van Niekerk, Minister of Agriculture, on 15 May, endorsing the LRC request for negotiations.

While we have not studied this issue in detail, the Centre's approach does seem to make sense. Further, I would be remiss in not expressing to you my concern about the negative repercussions that could result from a highly-publicized forced removal at the present sensitive juncture. Public opinion toward South Africa is going through a period of re-evaluation in the United States right now, and it is important to avoid incidents that will create a negative impression. Last weekend's events at Goedgevonden illustrated all too vividly the dangerous tensions now focused on this case. I sincerely hope that you and your fellow cabinet members who share responsibility in this matter can find a solution which defuses the situation, and does not put your government in the position of appearing to enforce the policies of an earlier era at a time when so much progress is being made.

Justice Goldstein gave judgment on 3 June.²⁵⁵ Because the applicants refused to address the substantive issues, the respondents also eschewed them, instead invoking the 13 April agreement with Smit. However, he was not the agent of the seven white farmers. In a spoliation action (mandament van spolie) the defendant cannot raise issues of ultimate right; therefore Goldstein struck the respondents' counter-application (while noting the applicants' "surprisingly voluminous" founding affidavit and annexures canvassing "such matters as the government's ownership of the land and the history of the respondents' leaving it in 1978" and the superfluity of the Minister of Agriculture and Agricultural Development as a party). He found that the six white neighbors whose land was not occupied were entitled to relief because Segopolo told Smit that "members of my community were intending to return to the land from which we had been moved." For these reasons Goldstein found the decision for the seven private applicants uncontroversial.

When he turned to the costs of two counsel, however, he reached out to address the real issues, adopting five pages of the respondents' account—often their very words.

These allegations are not dealt with in the applicants' reply because they were regarded as irrelevant to the spoliation application. Nevertheless, since they are not controverted they must be accepted by me as true. No court can fail to be profoundly moved by what has happened to the respondents and their community. In these circumstances it seems to me proper that, provided I am not unfair to the applicants, I should attempt as far as possible to soften the effect of my order against the respondents by relieving them of paying the applicants' costs.

The government's application failed to establish possession; although it sought to cure the deficiency, "I need not decide the correctness of this argument since considerations of fairness do not persuade me that the first applicant should be permitted to supplement his case in the replying affidavit." The seven private parties, by contrast, had a real

claim: "their peaceful occupation of the ground has been invaded without due process by large numbers of people and that is a most serious wrong." The government had unnecessarily complicated the case by joining as a party. Furthermore, Goldstein had "gain[ed] the distinct impression . . . that . . . the government is the real litigant before me. . ." and is paying all the costs. The respondents had offered to negotiate.

The government refused to do so, taking the view that since they were living in Bophuthatswana it would be "inappropriate and totally irregular" to meet with them. It seems to me that the government committed an error of judgment in adopting this attitude.

For all these reasons, he denied the government costs. He concluded:

Given the profoundly tragic history of this matter no court can grant an order for eviction in the present circumstances affecting hundreds of people without feelings of distress and anguish. But the principle at stake here is a cornerstone of the rule of law. The principle that no man may take the law into his own hands as the respondents have done is sacrosanct. Respect for it is absolutely necessary for human society to function in conditions of peace, serenity and security. The principle is an ancient one of our common law. It existed long before the misfortune which dispossessed the respondents was conceived of, and hopefully, it will continue to exist and be respected long after that misfortune is corrected, and it and their pain are no more than a blot on the pages of our history books.

He granted leave to appeal, thereby automatically staying the eviction order. The respondents remained on the land as virtual prisoners, surrounded by barbed wire and a roadblock open only during the day and only to residents.²⁵⁶ As the appellate hearing approached, the parties agreed to an indefinite postponement while they negotiated. The community submitted its evidence to the Advisory Commission on Land Allocation in December 1992, but the matter languished. When internal divisions proved irreconcilable, the LRC withdrew its representation. In October 1993 Potchefstroom Magistrate Jack la Grange convicted Eugene Terre'Blanche and ten others of public violence for the attack on Goedgevonden. Terre'Blanche paid a R10,000 fine and had an 18-month prison sentence suspended for five years. Although he had expressed remorse during the trial, he called "Long live the struggle" after paying his fine.²⁵⁷

Other groups sought to reassert their rights. In 1962 the Dutch Reformed Church sold the Elandskloof farm between Ceres and Citrusdal in the Cape to two white farmers, who evicted the 70 black families by burning their houses and crops, locking them out of the school and church, and arresting them for trespassing. They were never resettled. In May 1991 the remaining 20 families, who lived nearby at Allendale, sought to return; in response they were given notices to vacate. In August 1992 the eviction proceedings were postponed indefinitely while ACLA considered their claim.²⁵⁸ In

July 1992 Andries Radebe sued in the Pietermaritzburg Supreme Court for title to land at Cremin, from which he and others had been removed to Esikheni township 15 years earlier; he claimed lack of adequate notice and the absence of a public purpose for the expropriation.²⁵⁹ But in 1994 Justice Willem Booysen rejected the claim because the 17-year delay in challenging the removal was "grossly unreasonable" and the explanations offered for delay were "nonsense."²⁶⁰ At hearings before the Advisory Commission on Land Allocation, those removed sought an independent body with decisional powers.²⁶¹ The Majeng community in the Northern Cape had been removed in the 1970s. After repeal of the Land Acts they lodged a claim with ACLA. Before it was heard, however, the government sold their land to six white farmers and then argued that ACLA therefore lacked jurisdiction. By November, ACLA had collapsed before challenges by 39 black communities seeking the return of their land, who threatened unilateral action, including occupations, if their demands were not satisfied.²⁶² Of the 58 claims made during its two years, it had allowed five and rejected eight. In December the government agreed to restore Roosboom and Charlestown to their original black owners.²⁶³ On 11 February the 1000 Riemvasmaak people, removed from Augrabies in the Northern Cape in 1974 to northern Namibia and the Ciskei, were allowed to return. Their land had been used for bombing practice and then turned over to the National Parks Board. After they demonstrated at the World Trade Centre, the Minister of Land Affairs directed ACLA to reconsider their claim. With the support of the National Parks Board, ACLA returned 50,000 of the original 70,000 hectares. They celebrated their return in June 1994.²⁶⁴

Section 28 of the Interim Constitution guaranteed "the right to acquire and hold" property and authorized expropriation for "public purposes" on payment of compensation a court finds to be "just and equitable, taking into account all relevant factors, including . . . the use to which the property is being put, the history of its acquisition, its market value, the value of the investments in it by those affected and the interests of those affected." The ANC Reconstruction and Development Programme promised to redistribute 30 percent of agricultural land within five years. On 12-13 February 1994, more than 700 members of more than 350 dispossessed or otherwise landless communities held a Community Land Conference in Bloemfontein. They demanded land to satisfy fundamental needs and recognition of claims dating back to 1652.²⁶⁵ They subsequently met Mandela, who assured them that if the ANC got a two-thirds majority in the April election it would rewrite the constitution to assure restitution and redistribution and eliminate the guarantee of market prices for expropriated land. After the election, Land Affairs Minister Derek Hanekom promised a land reform program.²⁶⁶ The new government quickly introduced a bill to establish a Land Claims Court. The World Bank report "Options for Land Reform and Rural Restructuring" proposed to fund a scheme of land redistribution, buying from white farmers at market prices depressed by the withdrawal of government subsidies and lending money to black purchasers.

On 10 January 1991 the Magopa wrote the Assistant Director of Education and Training in Potchefstroom, invoking his promises to educate their children.

The Mogopa community has built a school and it is our legal right that children should be accommodated in school like all other children. We therefor demand the following:

1. That the built school be opened recently.
2. That registration should be done recently as it was done at Onderstepoort by the Minister Dr Viljoen.
3. That pupils and parents be satisfied that the communities request has been adhered to.
4. It is the wish of the State President that all children should go back to school, so it is the wish of the Mogopa community.

They sought a reply by 18 January. A week after that they got an acknowledgement and an assurance that the request was receiving "urgent attention."

Haysom wrote Marais again in mid-February, seeking a reply to his November letter, asking if the Magopa could plow, improve their infrastructure, and build better dwellings, especially with the approach of winter, and inviting him to a tribal feast to celebrate the completion of the school. Marais answered promptly, hoping he could give a substantive response "within the foreseeable future." He could not attend the feast but hoped "it would be a successful and happy occasion." Haysom followed this up two weeks later, noting his clients' compliance with their agreement not to plow or build but stressing the urgency of schooling for the 383 children. Marais's administrative secretary replied on 5 March. The central question of land could not be finalized until negotiations were completed to incorporate Pachsdraai and Onderstepoort into Bophuthatswana. (It is astonishing that the government was still expanding the "independent" homelands in 1991.) His department was awaiting advice on the question of ploughing; and the community had never formally requested assistance with education! But Marais seems to have had second thoughts, because he wrote personally the next day that the school was already registered, the five teachers requested would be provided "as soon as possible," and the Department hoped to take full responsibility for the school beginning in 1992.

Haysom wrote in mid-April, noting that many families were now settled at Zwartrand and their children were in school. The community wanted to resume agriculture and once again become self-supporting but were prevented from doing so by cattle grazed on their land by white farmers. He sought rescision of the lease to the Koster-Ventersdorp Agricultural Union and removal of the cattle. Marais replied in early May that the Department of Agricultural Development owned the land and had executed the lease; he had asked that Department to terminate it. At the end of May Haysom asked that pensioners be paid at Ventersdorp rather than having to travel to Onderstepoort. He sought an assurance that the recently published White Paper on land did not undermine the government's promise not to alienate Zwartrand or Hartebeeslaagte until the dispute was resolved. And he sought a meeting to discuss improving housing and ploughing. Finally, he asked that the primary school be expanded to include a high school. Marais's administrative secretary replied in early

June, reiterating the agreement not to alienate the farms, suggesting a meeting after 1 July, postponing a decision about ploughing until the leases were cancelled, and promising to investigate education and pensions. Marais followed this in July with approval in principle for secondary school classes contingent on the Magopa building three additional classrooms. At a meeting on 24 July 1991, Marais finally granted the Magopa permission to plough, plant, rebuild their houses, and construct the secondary school. On 17 June 1992 Johan Scheepers, Deputy Minister of Law and Order and Land Affairs, announced the decision to return title of Zwartrand to the Magopa.²⁶⁷

In December 1992 the Magopa filed a claim to Hartebeeslaagte with the ACLA. Zwartrand by itself was not economically viable because most of the tillable land was in Hartebeeslaagte. Abram Madibikame said: "The government took my trousers. Now it has brought back one leg. How can I walk with just one leg?"²⁶⁸ They rejected the government's argument that Pachsdraai was compensation for Hartebeeslaagte, since they had never chosen to move to Pachsdraai. On 17 December 1993, however, ACLA adopted that view. As long as community members retained property rights at Zwartrand and Pachsdraai and occupation rights at Onderstepoort, the Magopa were only entitled to buy Hartebeeslaagte at market price. The government should give the community Hartebeeslaagte only if it relinquished Pachsdraai and Onderstepoort (an impossible condition, since residents at those two sites did not want to move to Zwartrand). If the community chose neither option, then Hartebeeslaagte would be used to assist beginning farmers.²⁶⁹

In March 1994 the community created the Bakwena ba Mogopa Trust for purposes of developing their land; the trustees included six members, together with Haysom and Claassens. They also instructed Cheadle Thomson & Haysom to draft a constitution. It defined their membership to include all those resident on 1 February 1984 or who subsequently joined through customary law. The governing body was an Executive Committee of 15, composed of three members from each of the five clans. When I visited Mogopa in August 1994 they were talking of unilaterally beginning to plough Hartebeeslaagte that spring.

VII. ANALYSIS

The Magopa removal raises many central questions about the relation between law and politics in the struggle against apartheid: How successful was the government in seeking to give reasons for the exercise of power? What were the roles of negotiation and of executive, legislative, and judicial action? What was the strategic significance of timing and publicity?

The government clearly felt a strong obligation to offer reasons for what many saw as the exercise of raw power—uprooting thousands of people from their home of 70 years and dumping them many miles away. It also believed it could demonstrate the justice of this action. At the outset the Magopa seemed predisposed to believe in the government's benevolence; the 1982 memorandum expressed their faith that it would depose Jacob More as headman. Johannes Andrews (who moved early) embodied the sense of dependence: "The Government must be obeyed. It is the father and the mother. It is the giver of things." But even those who ultimately rejected Pachsdraai seem to have conceded governmental power to move them, seeking only to preserve a modicum of autonomy: arranging their own inspection of Pachsdraai, giving consent before their houses were appraised in preparation for demolition. After repeated rebuffs, however, many Magopa became increasingly skeptical of the government's rationalizations, insisting on more adequate reasons for the removal, the prohibition against returning, the expropriation of Zwartrand and Holgat, the alternative land offered, and the threat to sell Zwartrand. The expropriation of Holgat appears to have been the last straw—unilateral governmental frustration of their final effort to choose a resting place. The depth of their betrayal was directly proportional to the strength of their initial trust (as was true of the Mawu members fired by BTR Sarmcol, see that monograph).

The conversation constantly shifted course. As early as 1969 the government mentioned the need to open the land to diamond prospecting. Thereafter the Magopa insisted that this was the real reason for their expulsion, although the government repeatedly declared that the tribe had sold all mineral rights decades earlier. It is unclear whether the Magopa believed this was just more governmental perfidy or were consciously perpetuating a useful myth.

The principal government strategy here, as in all colonial regimes, was to coopt pliable leaders who could speak for the tribe: Lucas Mangope (State President of Bophuthatswana), James Lerothodi Mamagole (paramount chief of the Bakwena and subordinate to Mangope). Jacob More was ideal because the tribe had originally chosen him. Although it is unclear exactly when or why he agreed to do the government's bidding, the rewards were substantial: retention of the headmanship (after the community had ousted him), the best houses and farms at Pachsdraai for him and his followers, and revenge against his enemies. That strategy, however, had a fatal flaw. Its foundation was the traditional legitimacy of the headmanship; but the Magopa claimed they had lawfully removed Jacob More for corruption (it is unclear whether this would have led to his deposition had he not agreed to the removal). The government

response was unconvincing. The Ventersdorp Magistrate openly asserted that he, not the tribe, appointed the headman; and the government clearly had statutory authority to appoint and replace headmen at will. But this destroyed the traditional legitimacy of the office. Having justified the exclusion of blacks from national politics by arguing that they were empowered locally, the apartheid regime then overruled traditional democratic practices by autocratically imposing puppets who quickly became corrupt and petty tyrants. At Pachsdraai Jacob More violated the strong egalitarian principle of access to land by giving the best houses and plots to himself and his followers.

The government's next line of defense was to portray resistance to Jacob as mere factionalism, a fight between "brothers" (although Jacob had no brothers), the equivalent among elders of the "black-on-black violence" among youths (both of which government had fomented). This was another instance of the "divide and conquer" strategy dominant minorities always use to subordinate majorities. The government also embraced the big lie that the "tribe" had consented. It pointed to the numbers who had moved with Jacob beginning in July 1983. It dismissed the rest as a "dissident minority." They had been given opportunities to participate in discussions about the removal but had boycotted the meetings. Even then they were not denied choice, since many "chose" to move to Bethanie rather than Pachsdraai. Ben Wilkins argued that the dissidents could not claim leadership of a rural community because they were labor migrants; but such urbanization undermined a principal rationale of the homeland policy. The government had the nerve to claim that the Zwartrand churches *requested* demolition. Viljoen continued to insist in late 1986 that the move was voluntary—long after the Appellate Division had invalidated it! (It adopted the reverse strategy in Goedgevonden: State Attorney Coertze called the return a "forced removal" because outsiders might have helped defray the cost of transportation.)

The Magopa responded that they had never consented; every action had been coerced. They had been threatened with loss of compensation; teachers had been withdrawn and schools demolished; the bus service had been terminated and the water pump taken; the cattle of white farmers trespassed on their lands; the magistrate refused to pay pensions or issue or endorse reference books. Worst of all was the constant uncertainty bred by the threat of force—which ultimately was used. Under the circumstances, those who moved before 14 February 1984 certainly did not "consent." Similarly, they had never acquiesced in the decisions of Jacob More and his "Planning Committee." Jacob excluded *them* from his secret conclaves and boycotted the tribal meetings to which he was invited. In support of this claim they invoked the very warrants of traditional and customary procedures on which the government relied.

When the government ultimately was compelled to admit that the removal was forced, it offered a number of justifications. Several were circular: apartheid required separate government services for blacks, but it was inefficient to provide these to black spots in predominately white areas; since negotiation had not secured the tribe's consent the government had no choice but to use force. As early as 1969 it invoked "general government policy"—which presumably meant grand apartheid. Fifteen years later it

continued to refer to the "public interest," which had two distinct meanings. One remained grand apartheid: the "consolidation" of all blacks inside the homelands. This was explicit in the plan to incorporate Pachsdraai and Onderstepoort into Bophuthatswana (only abandoned after March 1991) and the government's persistence (through 1987) in offering the Magopa only land adjacent or near to the homeland and its expropriation of Holgat because it was unwilling to countenance the creation of a new "black spot." The government sought to demonstrate its disinterest by pointing to the fact that whites removed from Pachsdraai also suffered. Even if some in government had begun to question grand apartheid, all feared that the Conservative Party would use any sign of compromise to wrest more seats from the Nationalists.

The second meaning of public interest was development: the removal would benefit the Magopa. Zwartrand had been chaotic; Pachsdraai would be a planned community. This also was a justification for removing the people of Oukasie from the outskirts of Brits to Lethlabile (see that monograph). (It closely parallels the ideology of 1960s American urban "renewal"—grist for South Africa's charge of hypocrisy against foreign critics.) The Dutch Reformed Church had found no churches or schools at Mogopa; "the general condition is one of neglect" (which conveniently disregarded that the government had destroyed the churches, schools, and houses). The government generously paid for the move and compensated the Magopa for all losses. Pachsdraai was larger than Zwartrand. The government promised money for development. The removal would reunite the community. And, as the Dutch Reformed Church report added, the government could not be expected to develop *two* areas for the Magopa. The fatal flaw of this argument, of course, was that if Pachsdraai really were preferable to Mogopa, force would be unnecessary.

These arguments naturally failed to persuade the Magopa. None of them wanted to live in Bophuthatswana. Indeed, the homelands were a constant embarrassment to the South African regime because of their poverty, corruption, and tyranny. Those who moved to Bethanie later fled partly because they detested homeland autocracy. (Conditions in Bophuthatswana partly explain the return to Goedgevonden as well.) Nor were all Magopa convinced of Paachsdraai's superiority. They would be ruled by the despised Jacob More, who had allocated the best land to himself and his henchmen. The soil was greatly inferior. Whatever the government maintained, they preferred Zwartrand. In the end, the government had to concede this, too. The Magopa could never expect to have land as good as Zwartrand.

Once the Magopa had been removed, the government offered new reasons for resisting their claims. First, they could not purchase Holgat because it was suddenly needed for an agricultural college—although it had been on the market for several years. Second, local whites would object to their return to Zwartrand and might elect the Conservative Party, not only in Ventersdorp but elsewhere, endangering National Party rule. The Magopa may not have seen much difference between the two. Nevertheless, they responded with evidence that local farmers and businessmen would welcome their return. They were even accepted by the brother of AWB leader Eugene Terre'Blanche.

Because the land had remained vacant since their departure, the only obstacle to which the government could point was the tenuous claims of whites who had leased grazing rights.

Third, their return would undermine the legitimacy of grand apartheid, inviting others to reclaim land from which they had been removed (exactly what happened). That argument was only likely to strengthen the Magopa's resolve to return. Still, they offered rebuttal. Their case was unique: the Appellate Division had upheld their claim; the government had repealed the statute under which they had been removed; it had foresworn further forced removals and reprieved other communities. The government response showed real chutzpah: allowing the Onderstepoort Magopa to return to Zwartrand would endanger the rights of those at Pachsdraai—and it was essential that vested land rights remain secure and certain! (The government's hypocrisy even exceeded the Industrial Court's solicitude for the scabs at BTR Sarmcol who would lose their jobs if Mawu members—with an average of over 15 years service—were rehired; see that monograph.) Another reason for the government's intransigence was its refusal to concede the evil of apartheid, and thus its own moral degradation. Even de Klerk was never able to offer an unqualified apology for apartheid.

Sometimes the government lapsed into *ipse dixit*. Magistrate de Villiers declared "I am a white man and as magistrate of this district I am telling you that Jacob More will rule until he dies." He kicked the Magopa man who served him in the action to interdict the removal (just as the Oukasie superintendent vulgarly rejected Moshe Jan Mahlaela's application for a house; see that monograph). Solly Vermaak "explained" that the removal could not be postponed "because it was both a State President's and Court Order." Ben Wilkens added that it had to take place. George de Villiers Morrison was similarly tautological: "You do get to a stage when for certain reasons you have to move these people. And then you are left with no other option but to move them by force." Gerrit Viljoen protested that the Magopa could not return to Zwartrand because the Cabinet had so decreed. A government that wielded absolute power sought to present itself as powerless, driven by larger forces. And sometimes the government felt no need to justify its actions at all, as in the expropriation of Zwartrand.

Since the government wielded power, it felt the primary obligation to justify its actions. But the Magopa did not simply respond; they also argued their own case. They had bought Zwartrand with their own money. It could not be sold without their consent or expropriated without notice. Of course, this did not persuade the government, which held title to the land and had "exchanged" it for Pachsdraai. Later they invoked the Appellate Division decision (overlooking its acknowledgement that expropriation had mooted the dispute). As is generally true of rights strategies, these pleas for special treatment emphasized the uniqueness of the Magopa rather than their solidarity with the millions removed earlier. Indeed, Haysom suggested that the government could bow to the Appellate Division without setting a precedent or giving ammunition to its rightwing opposition. The Magopa even adopted the language of apartheid, arguing that their proximity to three other black settlements would allow efficient administration along

racial lines. The Magopa argued that their agricultural methods were suited only to the maize triangle. But the government viewed younger farmers as pure labor power, which could be applied to any task. The Magopa believed that their paramount chief at Bethanie could protect them; but the government apparently did not even recognize the Bethanie chief, who in any case fell under the jurisdiction of "independent" Bophuthatswana.

Perhaps because occupation of the graveyard was their one means of self-assertion, the Magopa invested much rhetorical energy defending it, mobilizing arguments that were unavailing against the removal itself. The crucial declaration of an obligation to preserve the cemetery was voiced as early as December 1983; they returned six months after the removal to unveil tombstones. Their attachment to the graves was spiritual rather than material, grounded in a religiosity that whites also boasted. Agricultural land might be fungible but not the cemetery containing their ancestors' graves. The government found it hard to rebut these claims. Although the 1984 Dutch Reformed Church report noted that the Pachsdraai residents did not seem to view the Mogopa graveyard as an argument against resettlement, the government conceded the Magopa's right of access to the cemetery as early as December 1986—one of the few commitments it felt unable to break. It could use force to remove, imprison, torture, even kill—but not to interfere with burials (as Sophocles wrote of Creon in "Antigone," more than 2300 years earlier). When the Magopa began to expand the size and permanence of the settlement at the end of 1988 and beginning of 1989, the government had to find new objections. It ignored an obvious one—that the tribe had shown little interest in the cemetery during the nearly five years since the removal (and had left behind graves in the Orange Free State when they moved to Mogopa). Instead it raised two kinds of arguments. One set was practical: health conditions, property damage, and policing. The Magopa sought to rebut these—but of course they were not the government's real reasons. The other argument was more imaginative: the testimony of an Afrikaner "expert" about the alleged customs concerning the maintenance of graves. The Magopa counterposed a claim to exclusive expertise in traditional law (based on cultural uniqueness) against the white government's claim to exclusive expertise in modern law (based on technical competence and the power to change it at will).

This last exchange illustrates a more general point: the inconsistent and even opportunistic use by both sides of the warrants of tradition and modernity. Because the ineradicable uniqueness of "tribes" was the cornerstone of apartheid the government *had* to rely on tradition. It invoked the tradition of headmanship to recognize Jacob More as tribal spokesman. But the Magopa also claimed to have used traditional procedures to remove him for violating customary obligations. They labelled him a government puppet who flouted the fundamental tradition of open discussion and consensual decisionmaking about major issues like land. The Magopa insisted they were traditional farmers who could only survive within the maize triangle. The government responded that the younger members of the community could learn modern agricultural techniques. But then the government turned around and justified the removal as part of its grand

apartheid scheme to relocate all blacks in "traditional" tribal groups governed by "traditional" tribal rulers. Somehow the government was able to disregard the contradiction inherent in forcibly moving people to "homelands" they had never seen. The Magopa argued that custom dictated how they must clean their ancestors' graves. Just as BTR Sarmcol invoked its Zulu-speaking white labor relations officer who claimed to understand the workers intimately (see that monograph), so the government responded with an Afrikaner expert who claimed to know Magopa customs better than they did. He maintained that the graveyard at Zwartrand was modern, not traditional. (If so, of course, his "expertise" was irrelevant.)

Other rhetorical exchanges revealed similar contradictions. The legitimacy of Afrikaner, and especially Nationalist, hegemony rested on three basic premises: history, religion, and paternalism. The Magopa turned each against the government. Afrikaners claimed they had been on the land for years; so had the Magopa. Afrikaners claimed they had been repeatedly wronged (by the English); so had the Magopa (by all whites). Afrikaners claimed a religious warrant for their actions; the Magopa also were Christians and sought to show respect for their ancestors. If Afrikaners were devoted to the wellbeing of blacks they should hear the protests of the Magopa and give adequate reasons for removing them and preventing their return.

In the struggle over Zwartrand, the Magopa and the government chose among three strategies: direct action, negotiation, and resort to legal forms. Both sides consistently preferred negotiation. The Magopa, for instance, considered but postponed a legal challenge to the expropriation of Zwartrand for fear it would jeopardize negotiations to return or to obtain other land. They felt betrayed when the government used this delay to argue that they could not object to the expropriation in defending the ejectment action. Aware of their powerlessness, the Magopa threatened self-help more often than they engaged in it, using the threat primarily to reopen negotiations. The government, in turn, showed greater interest in negotiations when under the gun: twice it made significant concessions within days of an impending mass return to Zwartrand. (Compare Pharaoh's repeated promises to Moses, made under threat of the plagues but broken when they ended.) And though the government claimed a monopoly of political power, it also refrained from enforcing the ejectment judgment in favor of continued negotiations. Even the Appellate Division ordered the parties to negotiate a resolution of the controversy.

Although the enormous power disparity persisted, the government's freedom of action contracted during this period, while the Magopa's expanded. Government could forcibly remove the Magopa in February 1984 but not five years later. In 1984 the Magopa could only threaten injury to themselves—deaths, suicides, fratricidal strife (like a child hurting itself to elicit parental sympathy, or a torture victim threatening to die). Five years later they could return unilaterally and declare (through Haysom) that they would not leave without a "satisfactory conclusion" to the conflict. (This reveals a crucial difference from the Mawu members fired by BTR Sarmcol, who could not unilaterally resume work; see that monograph.) Because they lacked political power,

blacks preferred to be reactive rather than proactive, forcing government to take the initiative—to remove, evict, and to starve (as in Goedevonden).

Each side had complementary, if different, reasons to prefer negotiation. The Magopa had no real choice. They lacked legal rights, political clout, economic leverage, and physical power. They could only ask, not demand. Negotiation allowed them to appear reasonable and responsible—the antithesis of township youths during this period of "unrest." Unable to make substantive demands, they could still advance procedural claims: equal numbers of negotiators, legal representation, minutes of previous meetings. This stance was not just a facade; they seriously considered the government offers of alternative land. This posture justified their request for consultation. Yet it may also have contributed to perpetuating their dependence. Negotiation allowed the government, as well, to appear conciliatory and solicitous. It encouraged and concealed delay. The government consistently missed negotiating deadlines; alternative land it proposed often was patently unacceptable. But the Magopa found it much harder to mobilize themselves and others around such elusive and amorphous issues. Negotiation minimized publicity; indeed, the government often made secrecy a condition of negotiating. The importance it attached to negotiation was reflected in the prominent role played by Cabinet Ministers Koornhof and Viljoen. Yet even they disclaimed authority to conclude agreements; Viljoen often acted the "good cop" obstructed by the "bad cop" Cabinet (behind whom loomed the worse threat of a Conservative Party government). Magopa elders tried their own variant—they could not indefinitely restrain the "hotheads" intent on returning unilaterally.

The importance of negotiation to both parties can be seen in the obligatoriness of the limited agreements reached and the response to what they viewed as breach. When the government believed the Magopa had abused their limited permission to clean the graveyard, it repudiated its earlier promise not to sell Zwartrand. The government adopted a tone of moral outrage (as it did when Tom Rikhoto unilaterally brought his family to live with him after the Supreme Court recognized his s.10 rights; see that monograph). Both were attempts to recapture the moral high ground. But whereas elsewhere the government could allege black violence, here it could only claim that the mixture of its own violence and media attention created an "explosive situation. The government was forced to argue that the Magopa had interfered with grazing by walking on the grass and drinking the water—thereby subordinating the rights of blacks to the needs of cattle owned by whites. The Magopa, in turn, expressed outrage at the government's refusal to permit a burial. The government felt that concessions from its plenary legal power should have particular weight. Unable to influence legislation, agreements were the only way the Magopa could participate in the lawmaking process.

Yet despite the centrality of negotiation, eight years produced no resolution because the parties' positions were fundamentally irreconcilable. The government insisted that the Magopa acknowledge its authority to decide their fate and agree to relinquish Zwartrand. Once they had done so, everything else could be negotiated—a new location, compensation, and generous development aid. The Magopa insisted on

their right to remain or return. Once this was granted they would be loyal and reasonable subjects. The outcome turned on neither eloquence nor strategy. The government wielded virtually absolute power; only after Botha's stroke and de Klerk's succession did it become serious about reform and contemplate major concessions.

Despite the shared preference for negotiation, both sides also used a variety of legal forms. The Magopa clearly were familiar with the legal system and prepared to use it. Early in the dispute they sought legal advice—indeed, they consulted four different lawyers, sometimes simultaneously. Those lawyers took or threatened legal action at several critical junctures. They challenged the authority of Jacob More, demanding to see his books and the report of the Commission of Enquiry—and lost. They threatened to seek an interdict if the government did not withdraw bulldozers from Zwartrand in October 1983—and won. They sought an interdict against the removal—losing in the Supreme Court and winning empty victory in the Appellate Division. They sued for compensation—winning a settlement. And they took legal advice concerning spoliation and the legality of the expropriation—which led to no action. On the basis of this experience, one would have to conclude that law offered the Magopa little help: it might influence the timing of the removal and get them compensation afterwards, but it could not divert the government from its course.

The National Party enjoyed a wider range of legal alternatives: it controlled the executive and (for part of this period) the legislature and always had access to the courts. It made full use of those fora. Both Houses of Parliament passed the 1975 resolution that constituted the (flawed) legal foundation for removing the Magopa. The Department of Co-operation and Development Aid instructed the Klerksdorp Magistrate to hold a Commission of Enquiry into the conduct of Jacob More—but then suppressed the results. The State President ordered the November 1983 removal under authority of the Black Administration Act. It is striking that the government refused to postpone that removal until the Appellate Division decided whether to grant leave to appeal the Supreme Court's refusal of an interdict—which it ultimately did. The government sought to forestall an adverse Appellate Division judgment in two ways: secretly expropriating Zwartrand and Hartebeeslaagte, and introducing a bill to validate the removal retroactively and oust the courts of jurisdiction. Yet the latter was withdrawn: even though the National Party controlled the House of Assembly, the political costs of being defeated in the Houses of Representatives and Delegates and overruling them in the white-dominated President's Council were very high; in any case, the government may have concluded that the expropriation rendered the bill unnecessary. The government displayed little respect for the Appellate Division. In oral argument it advanced almost frivolous points it had not raised previously. And even after the AD had rejected these arguments and invalidated the removal Viljoen continued to reiterate them, maintaining the legality of the removal. The government made mistakes in wielding legal power, just as it did in timing the use of force.

While the government was manipulating legality to justify its treatment of the Magopa it also sought to present a reformist image. It proclaimed an end to "forced"

removals and repealed the Black Administration Act under which the Magopa had been removed. These actions reflected divisions among whites, reproduced among local farmers: some were Conservative Party ideologues, but others placed greater weight on the value of Magopa as farm workers and consumers. However partial, these reforms still constrained government action. It clearly would have been impossible, for instance, for the government to obtain approval of the removal from the Indian and "coloured" Houses of Parliament, created following the white constitutional referendum on 2 November 1983. Nevertheless, the government did not hesitate to take unilateral legal action to prevent the Magopa from establishing another "black spot" in the Western Transvaal—by expropriating Holgat at the eleventh hour.

Most unusual, perhaps, was the government's decision to commence an action to eject the Magopa from the cemetery in 1989. In choosing from its strategic arsenal, the government's first preference was executive action, then legislation, then prosecution, and finally brute force (which placed the burden of response on the opposition). But here it was commencing a civil action, subject to all the delays and technicalities it usually inflicted on the opposition. Indeed, the reversal of positions was complete. The opposition usually sought judicial review of police illegality. Here, however, the Magopa preferred to deal directly with the police—whom they hoped to neutralize through their numbers and the presence of media observers—rather than appeal to the courts, which might legitimate another removal (as the Supreme Court did).

The two cases nicely illustrate the complexities and contradictions of the relationship between law and politics. In the first, the Magopa made a legalistic argument for an interdict against the removal: the Black Administration Act required parliamentary approval of their *destination*. The government offered an even more legalistic response: the "tribe" had agreed to move and had done so; the State President's order was directed to only a fraction of the tribe and hence was not a removal order under the Act. The Appellate Division itself purported to engage in conventional statutory interpretation: a tribe could not respond to a removal without knowing the destination; the "plain meaning" of parliamentary approval presupposed Parliament's knowledge of both the tribe's response and the destination. Yet such formalism verged on hypocrisy: *no* tribe moved voluntarily, regardless of the destination; and Nationalist Party control of Parliament assured approval of removals, irrespective of tribal consent or destination. The AD invoked a canon of statutory construction that courts should choose the less harsh of two possible interpretations (a rule it conveniently forgot in upholding the Emergency Regulations). At the same time, the court reached out to address the basic issue: the legality of the removal. It explicitly acknowledged the hardships of removal, the tribe's resistance, and the need for the most thorough governmental deliberation about such a draconian measure. It concluded that the removal was illegal. All of this was unnecessary, since the court also found that the legal expropriation of the land had mooted every issue except costs. Perhaps its gratuitous substantive ruling was a politically cheap form of sympathy. The Appellate Division could be generous with its rhetoric precisely because it was stingy with results. Judge Goldstein employed a similar strategy in Goedgevonden. Having found in favor

of the white farmers, he made a point of deciding against the government on procedural grounds (although this had no consequences) and then used the application for *costs* as an opportunity to address the merits. And like the judges who sentenced Ivan Toms and David Bruce to maximum prison terms (see that monograph), he thought that the iniquity of his decision was mitigated by an expression of personal regret.

The Magopa ejection action was in many ways a mirror image. Again both parties made legalistic arguments. The Magopa attacked the expropriation on the ground that the government had invoked the Expropriation Act but given reasons that would be valid only under the Development Trust Act. Furthermore, it had not given the tribe formal notice to quit the cemetery! The government response was even more technical. The expropriation could not be challenged in the present proceeding because: it was the wrong form of action; the Magopa had failed to join the Minister of Community Development, who had ordered the expropriation and was therefore a necessary party; and the challenge was no longer timely. Legalism diverted the evidentiary affidavits of both parties to peripheral issues: how many people were at the cemetery, when they arrived, how many huts they built, where they were located, how much time they devoted to cleaning the graves. Both the trial judge and the Appellate Division decided the case on technical legal grounds rather than reaching the merits. But neither granted the remedy the government sought: immediate ejection. The trial judge gave the government only technical relief: withdrawal of the permit to remain. The Appellate Division, having refused to consider the Magopa's substantive claim that the Minister of Co-operation and Development had breached his fiduciary duty to the tribe, turned around and gave them the remedy they sought—an order that the parties resolve their differences by negotiation. (Similarly, Goldstein granted the people of Goedgevonden leave to appeal and stayed his eviction.) Thus, the Magopa won a substantive victory in the first action but could not enforce it; and the government won a technical victory in the second but could not enforce it. In each instance law bowed to the shifting constellation of political power.

Goedgevonden also illuminated the complex relationship between law and power. Although the South African Police were certainly more sympathetic to whites (even, perhaps particularly, to the AWP) than blacks, they also felt an obligation to enforce the law and anger at anyone who openly defied them: "It was totally unnecessary for anybody to take the law into their own hands. The SAP has a duty imposed by law to act against anybody who transgresses the law and will not hesitate to take appropriate steps to maintain law and order." 11 May 1991 may go down in South African history as the first time white police shot fellow whites trying to attack blacks. But attachment to law cuts both ways. Justice Goldstein subordinated his politics to legality, which was "absolutely necessary . . . for peace, serenity and security"—hardly an accurate description of the black experience in South Africa.

If legal forms were not decisive, they significantly influenced both timing and the dissemination of information. During most of the struggle the government controlled timing. When it wished, it could act with great expedition, unilaterally choosing its

moment—as when it swooped down with police and trucks in February 1984 (anticipating the Appellate Division's grant of leave to appeal), expropriated Zwartrand and Holgat, and offered Zwartrand for sale. More often, however, it was a master of delay. Years passed between the first rumors of removal and the Valentine's Day actions. What was proposed as a two-month stay at Onderstepoort dragged out to more than two years. The government constantly passed the buck up and down the bureaucratic hierarchy and laterally across departments, whose names, responsibilities, and personnel were always changing. Officials promised to act, respond, consider, meet—but nothing happened. Even the Magopa's two appeals from adverse Supreme Court decisions compounded the delay. All this reflected the government's plausible but erroneous belief that time was on its side. In fact, the endurance of subordinated peoples always exceeds the tenacity of their rulers. Gross power imbalances are inherently unstable; the greater the disparity in numbers, the more difficult it is for the few to govern the many. Once the Magopa were re-established in the graveyard, time favored them. Furthermore, they controlled the speed with which they completed the cleaning, invoking custom to exclude women from the task and limit work to the morning hours.

But though it held the initiative, the government sometimes miscalculated badly. The most dramatic instance was the ten-day notice to leave, which expired on 29 November 1983. This transformed a war of attrition into a frontal assault, attracting the media and effectively paralyzing the government. The mistake was not repeated; two-and-a-half months later government executed the removal secretly and without warning. Once expelled from Zwartrand the Magopa were at a pronounced disadvantage, since now they had to take the initiative. It was a brilliant piece of strategy to infiltrate back to clean the cemetery, thereby compelling the government to start the removal all over again; and the government committed another major tactical error in allowing the settlement to grow and root itself for several months before acting. Furthermore, although the government constantly used delaying tactics, time actually favored the Magopa as the political environment began to change. The longer they could maintain a physical presence at the cemetery, the better their chances of remaining and expanding their settlement. The government's attempt to present a reformist image also helped: the reprieve of Driefontein and KwaNgema occurred just three days before the Appellate Division heard argument in the appeal of the Magopa removal.²⁷⁰

Information was strategically even more valuable than timing. Lacking political or economic power and therefore meaningful legal rights, the Magopa's only hope was to mobilize opinion: at home and abroad, in the churches, through the media, and from foreign governments. They had several advantages in this project. As one elder declared: "All we have is the right that the land belongs to us." The Black Sash was an invaluable ally, issuing press releases, guiding reporters, informing outsiders, and organizing meetings. The plight of the Magopa was highly newsworthy and well-suited to generate sympathy. Forced removals are almost as hard to justify as the Holocaust—an analogy Bishop Tutu explicitly drew. Given the hostile response to earlier removals, the government no longer felt it could drag people out of their houses in full view of television cameras. Foreign governments sent consular officials to

observe; even the Reagan Administration expressed disapproval. Hence the threat of publicity did literally forestall the November 1983 removal.

Press reports before and after that date consistently presented the removal as an atrocity story. After decades of forcible removals of millions of people, something more was needed to attract attention and reawaken sympathy. (The tacit message was that apartheid itself was acceptable as long as it was "voluntary.") Photographs of the demolished houses, schools, and churches highlighted the community's industry and prosperity and the wanton destruction wreaked by the government. These accounts were repeated when the community rebuilt the school only to have it destroyed a second time. The deteriorating cemetery also offered good visuals. Although the physical removal was a transitory event, anniversaries afforded an occasion to mourn it anew. Some of the atrocity stories disseminated most widely and repeatedly were apocryphal: that the Magopa were being robbed of their diamond mines (that happened in 1930, if ever); that one man removed to Pachsdraai was so despondent he committed suicide (removal apparently was not the cause). Deaths at Bethanie or Onderstepoort could be blamed on the government. The media focused on the plight of women, children, and the elderly. This was not inappropriate, since they constituted most of the community; but they also were more innocent, unthreatening, sympathetic, and vulnerable. For the same reason, there were several references to the patriotism of the Magopa in raising £600 for the allies during World War II. These were not township youths engaged in necklacing; they were conservative, rural land-owning, church-going farmers. The story changed after the removal. Press reports emphasized the intolerable conditions—at Pachsdraai, Bethanie, and Onderstepoort. The Magopa were the biblical Israelites, condemned to wander the (almost literal) desert for 40 months (if not years) until they could enter the Promised Land—their home. Or, to switch metaphors radically, they were the contemporary Palestinians in the refugee camps of the occupied territories and Jordan. Media rhetoric steadily escalated: death of a village, atrocity, final solution, as evil as Nazism, the ultimate blasphemy, sentence of death. Once the Magopa had returned to the cemetery, media attention revived, raising the political costs of a second ouster.

The government also tried to manage information but with much less success. Some of its methods were crude, such as barring reporters and television cameras from Zwartrand and Pachsdraai (a tactic that worked better to suppress information about unrest in the townships), or Koornhof's lie that the removal was voluntary—issued at the very moment police were breaking down doors and arresting those who resisted. Sometimes it disseminated disinformation about the numbers who had left for Pachsdraai or remained at Zwartrand, the date of the proposed removal, and the legal status of the farm. Sometimes it concealed potentially damaging information, such as the expropriation of Zwartrand (for ten months). It sought to avoid adverse publicity by acting when the media were absent. It repeatedly denounced the media for distorting the truth and inflaming public opinion—which conveniently offered a further justification for secrecy. It courted the media: Louis Nel invited reporters to join helicopter trips to Zwartrand and Pachsdraai. But these visits tended to backfire, as the Magopa reiterated their refusal to move and their resentment of Jacob More. Government involved the

Magopa themselves in its public relations campaign, insisting that they characterize the move to Onderstepoort as "voluntary." It sought to enhance its image by dramatic proclamations: the end of forced removals in February 1985, repeal of the Black Administration Act, the reprieve of Driefontein. Yet this only accentuated its gratuitous cruelty toward the Magopa.

The struggle over information and image, like the conflict within legal arenas, appears to consist of battles won and wars lost. In both, the Magopa felt entitled to demand, and the government obligated to offer, reasons for the exercise of power. Newspaper reports inside and outside South Africa consistently sided with the Magopa. The best the government could hope for was silence; even sympathizers seemed unable to portray its actions favorably. Yet the threat of adverse publicity could only delay the removal for two and a half months. It could not secure the Magopa a return home or even a piece of land more acceptable than Pachsdraai, Bethanie, or Onderstepoort. Together, however, legal resistance and media embarrassment denied the government the irreversible victory it sought. The courts refused to place the imprimatur of legality on the removal. The media kept the atrocities fresh in the public mind. Both allowed the Magopa to keep reiterating their claim until the changed political climate forced the government to respond.

NOTES

1. Platzky & Walker (1985); see also Platzky (1985; 1986; 1987); Unterhalter (1987); Cowling (1990); Claassens (1991). For Koornhof's angry reaction, see *Rand Daily Mail* (16.5.84); *The Star* (16.5.84); SAIRR (1985: 438). For an earlier account, see Desmond (1971); for the notorious Crossroads removal, see Lawyers Committee for Human Rights (1987); for an overview, see Christopher (1994).

2. *Hansard* col. 2534 (1.9.81).

3. *Hansard* col. 844 (11.2.83).

4. Zwelakhe Sisulu, "Village the Govt Broke," *Sowetan* 4-5 (3.10.83). The case is mentioned briefly by Suzman (1993: 202-03) and more extensively by Spink (1991: 107-11), who gets many crucial facts wrong.

5. Deed of Transfer (1922); Trac (1986); Haysom (1986).

6. Deed of Transfer (1931).

7. Godfrey Archibald Godley for Department of Native Affairs (4.10.22).

8. Haysom (1986).

9. Anonymous notes of Trac field trip (8.9.83).

10. Undated but probably submitted to Commission of Inquiry in January 1982.

11. Haysom (1986).

12. Haysom (1986).

13. Memorandum (4.10.83).

14. Haysom (1986).

15. Probably March 1983. It may have been from the migrant laborers on the Reef.

16. Anonymous notes of a Trac field trip (4.10.83).

17. Haysom (1986).

18. Memorandum (4.10.83).

19. *City Press* (18.9.83).

20. *The Star* (23.9.83).
21. *Sunday Express* 15 (25.9.83).
22. Zwelakhe Sisulu, "Mogopa's Lasting Agony," *Sowetan* 9 (30.9.83).
23. Zwelakhe Sisulu, "Village Weeps: Mogopa laid waste in prelude to land grab," *Sowetan* (30.9.83).
24. *Sowetan* 4-5, 7 (2.10.83).
25. *9 Learn and Teach* (1983)
26. SAIRR (1984: 306-08).
27. Haysom (1986).
28. *The Star* 2 (22.11.83).
29. Shadrack More v Minister of Co-operation and Development and J de Villiers, Transvaal Provincial Division, Case 20215/83.
30. *Rand Daily Mail* (23.11.83); *Sowetan* (23.11.83); "World watches as Mogopa stands firm," *City Press* 8 (28.11.83); Black Sash (1983a).
31. Steven Sihewula v Mr Kotze and Minister of Bantu Administration and Development, South-East Cape Local Division (Solomon, AJ, 22 November 1977).
32. *Rand Daily Mail* (26.11.83).
33. *The New York Times* 6 (27.11.83).
34. *Washington Post* A10 (28.11.83).
35. Probably 27 November 1983.
36. SACC Press Conference, "The Mogopa Removals" (30.11.83).
37. *City Press* 8 (3.12.83).
38. *Seipone* 1 (3.12.83); *The New York Times* (30.11.83).
39. *The Star* (1.12.83).
40. *Sunday Tribune* 4 (4.12.83).
41. Black Sash (1983a: 3).

42. Black Sash, Press Statement on SABC/Radio Setswana Coverage of Mogopa.
43. *The Star* (1.12.83).
44. *The New York Times* (30.11.83).
45. *Sunday Express* (4.12.83).
46. Both were reprinted by Francis Wilson in *South African Outlook* (2.84).
47. Black Sash (1983b).
48. December 3, 1983.
49. "Pretoria Defends Blacks' Removal" (3.12.83).
50. *City Press* (4.12.83); *Rand Daily Mail* (5.12.83).
51. *Sunday Tribune* 4 (4.12.83).
52. *The Star* 1 (6.12.83); *Rand Daily Mail* (7.12.83); Black Sash, Daily Summary on Magopa (6.12.83); Black Sash (1983b).
53. Black Sash (1983b).
54. *Rand Daily Mail* (10.12.83).
55. Haysom (1986: 15).
56. *Sunday Times* (11.12.83).
57. December 21, 1983.
58. *Rand Daily Mail* (15.12.83).
59. SAIRR (1984: 308).
60. Black Sash, Memo (20.2.84).
61. Trac (1986: 5).
62. *The New York Times* A2 (13.1.84).
63. *Bacon's* (22.1.84) (a repeat of Louis Freedberg's NPR piece).
64. *Rand Daily Mail* (3.2.84).
65. *Hansard* cols. 130-31 (31.1.84).

66. *Hansard* qs. 13-14 (2.1.84).
67. *Hansard* cols. 273-74 (2.2.84).
68. *Hansard* cols. 280-83 (2.2.84) (R.F. Botha).
69. *The Star* (9.2.84).
70. *The Times* (11.2.84).
71. Gill de Vlieg, "The St. Valentine's Day Removal at Magope" (16.2.84). The memo contains a handwritten note: "please be careful when using this!"
72. *Washington Post* A38 (16.2.84).
73. *Rand Daily Mail* (16.2.84); *Sunday Tribune* (19.2.84); Glenn Frankel, "South Africa Begins Evicting Blacks From Village," *Washington Post* A38 (16.2.84); Trac (1986: 5-6); Black Sash, Memos (including 20.2.84).
74. De Vlieg, Memo (16.2.84).
75. "Pretoria begins eviction of black villagers," *The Times* (15.2.84); "S African police evict black villagers," *The Times* 16.2.84).
76. *Hansard* cols. 1194-99 (16.2.84).
77. *Hansard* cols. 1199-1206 (16.2.84).
78. *Hansard* Questions and Replies cols. 238-41 (17.2.84).
79. *Hansard* Standing Committees cols. 74-75 (2.5.84).
80. *Rand Daily Mail* (18.2.84).
81. Charlene Smith, *Sunday Tribune* 19.2.84).
82. *City Press* (19.2.84).
83. *Rand Daily Mail* (15.3.84). This and other quotations are from SAIRR (1985: 440-42).
84. *The Star* (11.4.84).
85. Press release (9.5.84).
86. *Rand Daily Mail* (20.3.84); *Sowetan* (29.6.84); *The Star* (13.6.84).
87. *The Star* (31.5.84).

88. *Rand Daily Mail* (13.6.84).
89. *The Star* (4, 9.6.84); *Rand Daily Mail* (5.6.84); *Sowetan* (9.7.84).
90. SAIRR (1985: 443).
91. *The Star* (21.2.84).
92. Sophie Tema, *Rand Daily Mail* (21.2.84).
93. Sophie Tema, *Rand Daily Mail* 8 (24.2.84).
94. Black Sash, Memo (20.2.84).
95. 9(3-5) *DRC News* (3-5.84); "Bakwena tribe content, says NGK," *Rand Daily Mail* (3.3.84).
96. 36(3) *Wits Student* 11-13 (16.3.84).
97. *The Star* (1.3.84), (26.8.84); SAIRR (1985: 464).
98. *The Star* (12.5.84).
99. *Washington Post* A1 (4.5.84).
100. *Washington Post* A14 (5.5.84); reproduced in the *Guardian Weekly* 10 (13.5.84).
101. *City Press* (27.5.84).
102. *The Star* (26.7.84).
103. *The Star* 2 (14.8.84).
104. Disclosed in Minnaar's reply affidavit in the ejectment action (3.89).
105. "Removals Suspended," *The Star* 1 (2.2.85); SAIRR (1986: 328).
106. "Lurching towards change," *Natal Witness* 12 (15.2.85).
107. "The Invisible Removals," 9 *Sunday Express* (17.2.85).
108. "Mogopa: one year later," *Pretoria News* 12 (15.2.85).
109. *Hansard* Questions and Replies cols. 928-29, 1316-17 (Reply by P G J Koornhof, Minister of Co-operation and Development, to H Suzman, PFP) (12.4.84, 23.5.84).

110. *Hansard* Questions and Replies col. 1228 (Deputy Minister of Development and Land Affairs B H Wilkens).
111. SAIRR (1986: 329-30).
112. No. 89-85(GA); s.9: "irrespective of whether any legal proceeding is pending in any court with regard to any such order [of removal], any reference to the place to which the tribe in question has to withdraw, shall not be required in the resolution of both Houses of Parliament as contemplated in the first proviso to the said section."
113. "Tampering with black affairs" and "The contradiction in removals" *The Star* (22.5.85).
114. *The Cape Times* 4 (21.5.85).
115. "Courts pre-empted," *Financial Mail* 53 (24.5.85).
116. SAIRR (1986: 331).
117. *Hansard* col. 7396 (R A F Swart, PFP), 7435-36 (Gerrit Viljoen, Minister of Co-operation, Development and Education) (12.6.85); "Disputed provision dropped," *The Cape Times* 6 (11.6.85); "Magopa clause out," *Financial Mail* 65 (21.6.85).
118. *Weekly Mail* 11 (21.6.85).
119. Giliomee (n.d.).
120. Derrick Luthayi, "It's D-Day for the people of Driefontein," *City Press* 6 (25.8.85); *Weekly Mail* 4 (23.8.85), 7 (30.8.85).
121. *The New York Times* A12 (30.8.85) (dated 26.8.85).
122. *More v Minister of Co-operation and Development and another* 1986 (1) SA 102 (A); see *Weekly Mail* 1 (20.9.85), 6 (27.9.85); Albertyn (1986).
123. *Steven Sihewula v Kotze and Minister of Bantu Administration and Development*, Solomon AJ, SECLD (22.11.77).
124. 1986 (1) SA 102, 113.
125. *Id.* 114.
126. *Ibid.*
127. *Id.* 115.
128. *Ibid.*

129. Id. 115-16.
130. Id. 116.
131. "Forced removal: Parliament must act," *Pretoria News* 3 (30.9.85).
132. Same Mabe, "Struggle to stop removals," *Sowetan* 4 (24.9.85).
133. *Weekly Mail* 5 (4.10.85).
134. *Weekly Mail* 9 (11.10.85).
135. *Weekly Mail* 5 (8.11.85), 5 (15.11.85).
136. *Weekly Mail* 3 (22.11.85).
137. *Weekly Mail* 5 (22.11.85).
138. *Weekly Mail* 2 (February 7, 1986).
139. *Weekly Mail* 5 (14.3.86).
140. *Weekly Mail* 3 (25.7.86).
141. *Weekly Mail* 3 (12.9.86).
142. *Weekly Mail* 13 (19.9.86).
143. *Weekly Mail* 9 (26.9.86).
144. *Weekly Mail* 5 (24.10.86).
145. *Weekly Mail* 1 (21.11.86), 1 (28.11.86).
146. *Weekly Mail* 10 (28.11.86).
147. *Weekly Mail* 2 (23.2.87).
148. *Hansard* cols. 7670-71 (9.6.86) (N J J Olivier, PFP).
149. Trac (1988: 7).
150. Trac (1988: 8); *Weekly Mail* 5 (20.2.87) (feature story summarizing events to date).
151. Trac (1988: 8); 13 Trac Newsletter (8.87); *The Star* 1 (30.7.87).
152. Trac (1988: 10).

153. "Defiance is the only option—Mogopa," *New Nation* 14 (5.8.87); "Tribe 'to defy govt,'" *The Cape Times* 2 (30.7.87); "No haven at Holgat," *Financial Mail* 60 (14.8.87).
154. *New Nation* 2 (26.8.87); see also Jaffee (1987).
155. *Hansard* col. 2582 (29.7.87).
156. *Hansard* cols. 2652-53 (29.7.87) (Minister of Education and Development Aid).
157. *The Star* 1, 11 (30.7.87).
158. *The Star* (12.8.87).
159. *New Nation* 19 (30.7.87).
160. *Newsday* (9.8.87).
161. Press statement 4 August; see also *Business Day* (5.8.87); *The Cape Times* 4 (5.8.87).
162. *Weekly Mail* 5 (31.7.87); *The Star* 1 (30.7.87).
163. "The essential facts of the Mogopa-Holgat land tragedy," *Sowetan* 6 (6.8.87).
164. *Weekly Mail* 5 (31.7.87); *The Star* 11 (30.7.87), 7 (24.8.87), (26.8.87); *Newsday* 6 (9.8.87); *Business Day* (3.8.87); Trac (1988: 10).
165. Lester Venter, "Magopa home hope," *Sunday Times* 2 (6.9.87); Hilton Hamann and Samkelo Kumalo, "The tribe that wants to go home," *Sunday Times* 13 (6.9.87).
166. *Business Day* 4 (8.9.87).
167. Barry Streek, "Magopa people to get SA land," *The Cape Times* 4 (8.9.87).
168. *Sowetan* 7 (9.9.87).
169. "Righting a wrong," *Cape Times* 10 (9.9.87).
170. "Settlement by negotiation," *The Argus* 16 (September 10, 1987).
171. Joyce Harris, "Perseverance pays," *Sash* 35 (31.12.87).
172. Jo-Ann Bekker, "One simple step halts the long Mogopa march," *Weekly Mail* 10 (11.9.87).

173. September 14, 1987.
174. Aninka Claassens, Memorandum (12.1.88).
175. "The Agricultural Base of the Community: Reasons for Being Situated in the Maize Triangle."
176. Mogopa Land Proposals (5.10.87).
177. *The Star* (5.10.87).
178. Budlender's notes (2.12.87); Claassen's notes (12.1.88); see also Jo-Anne Collinge, "Minister meets representatives of Mogopa," *The Star* (30.11.87).
179. *Weekly Mail* 2 (13.2.87).
180. *Weekly Mail* 2 (13.3.87).
181. *Weekly Mail* 3 (27.3.87).
182. *Weekly Mail* 6 (27.3.87).
183. *Weekly Mail* 11 (27.3.87).
184. *Weekly Mail* 11 (27.3.87).
185. *Weekly Mail* 13 (27.3.87).
186. *Weekly Mail* 7 (29.5.87).
187. *Weekly Mail* 14 (26.6.87), 3 (11.9.87).
188. *Weekly Mail* 4 (10.7.87).
189. *Weekly Mail* 9 (17.7.87).
190. "Bloekombos squatters to be removed," *Cape Times* (5.10.87); "Shacks destroyed at Bloekombos," *yCape Times* (7.10.87); "Squatters watch shacks torn down," *The Argus* (19.10.87); "Shack lifted in the air with me in it, says ousted squatter," *The Argus* (20.10.87); *Weekly Mail* 3 (9.10.87).
191. *Weekly Mail* 14 (13.11.87).
192. *Weekly Mail* 5 (11.12.87), 3 (24.12.87).
193. See also "'Return our land,'" *New Nation* 2 (18.2.88). The community may have met with Beyers Naudé on 9 or 16 February and Helen Suzman on 13 or 20

February. Aninka Claassens, Memo. Mrs. Suzman mentioned the Magopa in Parliament on 9 February. *Hansard* col. 271 (9.2.88).

194. *The Star* 3A (15.2.88).

195. Themba Molefe, *Sowetan* 7 (17.2.88).

196. Budlender notes.

197. The minutes appear to have been prepared by the government retrospectively on 10 February 1989 to substantiate its version.

198. Letter received by Budlender 12 December.

199. Annexures M2, M3 to the application for ejectment (translated from Afrikaans).

200. Undated, apparently 20 January 1989 but misdirected and never received.

201. It was served on Matthew Mpshe on 10 February according to the subsequent Supreme Court judgment.

202. *The Star* (13.2.89).

203. *New Nation* 4 (16.2.89).

204. *Weekly Mail* 10 (17.2.89).

205. *Business Day* 2 (15.2.89).

206. Supreme Court, Transvaal Provincial Division, Case 2077/89.

207. All applicant affidavits and both judgments have been translated from Afrikaans by Cherie van Onselen.

208. *The Citizen* 8 (25.2.89); compare Demos Takoulas, "Mogopa tribesmen face eviction from State farm," *Pretoria News* 5 (27.2.89).

209. Alinah Dube, *Sowetan* 2 (27.4.89).

210. *The Citizen* 8 (26.4.89).

211. Riaan Smit, *Business Day* 2 (28.4.89).

212. *Business Day* 2 (2.5.89).

213. *City Press* 2 (30.4.89).

214. *Hansard* cols. 6708-09 (25.4.89) (P.G. Soal, PFP).
215. *Washington Post* (1.5.89); reprinted with some changes, "People of Mogopa Reclaim Their Home," *Sowetan* 6 (10.5.89) (without an account of the 2.5 judgment).
216. Ilse de Lange, *The Citizen* 8 (3.5.89).
217. Demos Takoulas, *Pretoria News* 5 (3.5.89).
218. *Business Day* 2 (3.5.89).
219. Mandla Tyala, *Sunday Times* 10 (7.5.89).
220. *Sunday Times* 18 (7.5.89).
221. *Business Day* 2 (11.5.89); *Weekly Mail* 1 (12.5.89); Alf James, "Mogopa Black Spot," *Sunday Tribune* 25 (14.5.89), "Tribe's story a document of survival," *Sunday Tribune* 25 (14.5.89). The judgment was also reported in the *Washington Post* (3.5.89).
222. *Weekly Mail* 5 (31.3.89), 5 (14.7.89), 3 (4.8.89), 5 (11.8.89); 1 Land Update (5.90).
223. *Weekly Mail* 6 (14.4.89), 11 (12.5.89), 17 (26.5.89).
224. *Weekly Mail* 6 (15.2.91).
225. *Weekly Mail* 3 (13.1.89).
226. *Weekly Mail* 6 (17.11.89); 1 Land Update (5.90).
227. *Weekly Mail* 7 (8.12.89), 5 (15.12.89).
228. *Weekly Mail* 2 (15.12.89).
229. *New Nation* 2 (August 17, 1990); Robertson (1992: 232-33).
230. Daniel Molefe and Matthew Mpshe v Minister of Department of Agriculture and Water Affairs and Minister of the Department of Education and Development Aid, Supreme Court (Appellate Division) No 573/89; Allister Sparks, "Home From the 'Homeland,'" *Washington Post* A16 (27.8.90).
231. Alan Cowell, "Blacks Return to Land Pretoria Took," *New York Times* §1 p4 (2.9.90).
232. Jo-Anne Collinge, "The dispossessed of Mogopa are back home," *Daily Mail*

- 2 (27.8.90); Jo-Anne Collinge, "Life returns to a haunted land and hunted people," *Weekly Mail* 3 (31.8.90); *Washington Post* (27.8.90).
233. *The Citizen* 4 (25.9.90).
234. *Weekly Mail* 8 (19.6.92).
235. Christopher S. Wren, "As Apartheid Fades, Uprooted Try to Go Home," *New York Times* A8 (4.1.91); Glenn Frankel, "S. African Clan Seeks to Reclaim Ancestral Land," *Washington Post* A14 (5.1.91).
236. *Weekly Mail* 12 (12.11.93); O'Regan & Yawitch (1993: 131-32).
237. *Weekly Mail* 6 (24.9.93).
238. *Weekly Mail* 10 (18.1.91), 20 (15.3.91).
239. Charlotte Bauer, "Eh he he. Clown Prince Piet is happy again," *Weekly Mail* 15 (11.3.94); Robertson (1992: 233-34).
240. *Weekly Mail* 12, 29 (8.2.91), 7 (22.1.93); Christopher S. Wren, "For Dispossessed Tribe, A Time of Reckoning," *New York Times* A4 (18.4.91); Scott Kraft, "Land and Justice in S. Africa," *Los Angeles Times* A1 (1.5.91); Jo-Anne Collinge, "Tutu in 'tum-tum' appeal for land," *The Star* 6 (16.7.91).
241. Rob Nixon, "White Farms, Black Claims," *New York Times* A17 (31.5.94).
242. Kobus Pienaar, "Victory . . . but now for the tensions of coming home," *Weekly Mail* 7s (3.94).
243. Christopher S. Wren, "A Homeland? Whites Fence Themselves In," *New York Times* A7 (8.5.91).
244. White Paper on Land Reform A2.11(f); *Weekly Mail* 1 (15.3.91).
245. Christopher S. Wren, "South Africa Moves to Abolish Racial Limits on Owning Land," *New York Times* A1 (13.3.91), "Pretoria's Land Plan: More for Blacks," *New York Times* 3 (16.3.91); Scott Kraft, "S. African Land Reform to Lift Curbs on Blacks," *Los Angeles Times* A13 (13.3.91).
246. Christopher S. Wren, "Pretoria to Study Blacks' Lost Land," *New York Times* A5 (21.5.91); Scott Kraft, "S. African Panel to Study Return of Land to Blacks," *Los Angeles Times* A1 (21.5.91).
247. "S. Africa Abolishes Laws Banning Black Land Ownership," *Los Angeles Times* A4 (6.6.91); Christopher S. Wren, "Pretoria Scraps Apartheid Laws on Land," *New York Times* A3 (6.6.91).

248. Minister of Agriculture and Agricultural Development, Petronella Jacomina Hall, Albertus van Zyl, Gottlieb Johannes Niemand, Jacobus Nicolaas van Antwerp, Hendry Victor Louis Olver, Gert Petrus Jacobus Coetzer, and Andries Terreblanche v Levi Segopolo and 86 others, Transvaal Provincial Division, Case No. 8380/91.

249. The *Los Angeles Times* A1 (21.5.91) erroneously reported there were 1000 attackers.

250. Olifile Levy Segopolo and the Community of Goedgevonden v Eugene Ney Terre Blanche and the Afrikaner Weerstandsbeweging, Transvaal Provincial Division, Case No. 9969/91.

251. Kevin Davie, "Blacks to get farm land on trial basis," *Business Day* (14.3.91).

252. "Pied Piper," "Indian Farms Quiz the Land Minister," *Farmer's Weekly* 7 (26.4.91).

253. "Land probs can be sorted out: Minister," *The Citizen* (30.4.91).

254. Quoted in "Govt 'approachable' on land restitution, says FW," *The Citizen* (9.5.91).

255. Minister of Agriculture and Agricultural Development and others v Levy Segopolo and others, 1992 (3) SA 967 (T); briefly noted in *New York Times* A3 (6.6.91); see O'Regan & Yawitch (1993: 133-34).

256. *Weekly Mail* 15 (24.5.91), 7 (7.6.91), 7 (10.1.92).

257. *Weekly Mail* 6 (29.10.93).

258. *Weekly Mail* 6 (5.7.91), 10 (11.9.92).

259. *Weekly Mail* 4 (24.7.92); O'Regan & Yawitch (1993: 131).

260. Carmel Rickard, "No land for farmers who waited too long," *Weekly Mail* 7s (3.94).

261. *Weekly Mail* 17 (21.8.92).

262. *Weekly Mail* 3 (27.11.92); Albert (1994: 158-64; 1995: 155-58).

263. *Weekly Mail* 2 (18.12.92).

264. Henk Smith, "A black spot tuns into a green spot," *Weekly Mail* 6s-7s (3.94); Pat Sidley, "Return of the 'Riemvasmakers,'" *Weekly Mail* 8 (3.6.94).

265. *Weekly Mail* 11 (18.2.94); Odette Geldenhuys, "It was humbling to hear the voice of the landless," *Weekly Mail* 6s (3.94).

266. Mdaduzi ka Harvey, "'Deliver us land'—communities," *Weekly Mail* 4 (13.5.94). For an anticipation of the ANC program, see Dolny & Klug (1992).

267. Jo-Anne Collinge, "Residents of Mogopa win land battle," *The Star* 7 (18.6.92).

268. Trac, Newsletter No. 23, p.2 (8.92).

269. Letter from S W McCreath to the Deputy Commissioner of Land Affairs (17.12.93) (in Afrikaans; I am grateful to Lo-Mari O'Brien for translation).

270. 26 August 1985; the case was argued on 29 August and decided on 19 September. See White (1988).

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